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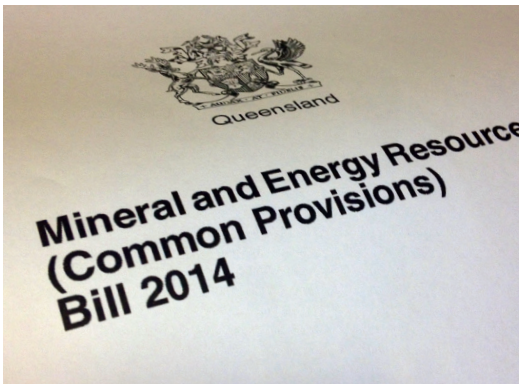

Mineral and Energy Resources (Common Provisions) Bill 2014

Report No. 46
Agriculture, Resources and Environment Committee
September 2014

Parliamentary Committees

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Agriculture, Resources and Environment Committee

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Acknowledgements

The committee thanks submitters and the officers who briefed the committee on the Bill.

Contents

Abbreviations and definitions

ADR	Alternative Dispute Resolution
AMEC	Association of Mining and Exploration Companies
APPEA	Australian Petroleum Production and Exploration Association
BSA	Basin Sustainability Alliance
CCA	Conduct and Compensation Agreement
CPN	Certificate of Public Notice
CSG	Coal seam gas
DEHP	Department of Environment and Heritage Protection
DNRM	Department of Natural Resources and Mines
EDOQ	Environmental Defenders Office Queensland
EIS	Environmental Impact Statement
FLPs	Fundamental Legislative Principles
GPS	Global Positioning System
LSA	Legislative Standards Act 1992
MQRA Program	Modernising Queensland's Resources Acts Program
QMDC	Queensland Murray Darling Committee
QRC	Queensland Resources Council
WDRC	Western Downs Regional Council

Chair's foreword

This report presents the findings from the committee's inquiry into the Mineral and Energy Resources (Common Provisions) Bill 2014, introduced by the Hon Andrew Cripps MP, Minister for Natural Resources and Mines.

The Minister for Natural Resources and Mines and his department have made a concerted effort to amalgamate complex resources legislation to try to reduce red tape. In addition to improving processes between mine owners, resource companies and land holders, the Bill also makes associated changes to property law, state development and public works, and Torres Strait Islander cultural heritage acts. The Bill also repeals redundant state superannuation legislation for coal and old shale mine workers.

Queensland is fortunate to have land that is suitable for resource exploration, agriculture and other uses, to support its local needs and its economy. The Bill represents the efforts of the Queensland Government to balance the interests of all parties in land use, and ensure a strong and productive economy.

This report highlights concerns raised by the Land Access Committee, rural organisations and supported by people from across Queensland. It is unfortunate that we do have some companies who have apparently not lived up to their expected corporate responsibilities in the past, and the system has not discouraged these actions. This Bill recognises the positive outcomes that can be secured through good relationships.

The committee conducted hearings in Brisbane, Toowoomba, Mackay and Townsville as part of its inquiry, and thanks those who attended to give evidence or observe the hearings, some of whom travelled a long way to attend.

I commend this report to the House.

Ian Rickuss MP
Chair

September 2014

Recommendations

1. Introduction

Role of the committee

The Agriculture, Resources and Environment Committee is a portfolio committee established by a resolution of the Legislative Assembly on 18 May 2012. The committee's primary areas of responsibility are agriculture, fisheries and forestry, environment and heritage protection, and natural resources and mines.[1]

In its work on Bills referred to it by the Legislative Assembly, the committee is responsible for considering the policy to be given effect and the application of fundamental legislative principles (FLPs).[2]

In relation to the policy aspects of Bills, the committee considers the policy intent, approaches taken by departments to consulting with stakeholders and the effectiveness of that consultation. The committee may also examine how departments propose to implement provisions in Bills that are enacted.

FLPs are defined in Section 4 of the *Legislative Standards Act 1992* as the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

The referral

On 5 June 2014, the Hon Andrew Cripps MP, Minister for Natural Resources and Mines, introduced the Mineral and Energy (Common Provisions) Bill 2014 (the Bill). The Legislative Assembly referred the Bill to the committee for examination, in accordance with Standing Order 131. The committee was given until 30 August 2014 to table its report to the Legislative Assembly, in accordance with Standing Order 136(1).

On 7 August 2014, the House agreed to vary the time for the committee to report to the House on the Bill, to 5 September 2014, in accordance with Standing Order 136(2).

The committee's processes

In its examination of the Bill, the committee:

- invited written submissions from stakeholder groups and members of the public. The committee accepted written submissions from 288 parties. A list of submitters is at **Appendix A**.
- sought advice from the Department of Natural Resources and Mines (DNRM) on the policy drivers for the amendments proposed, a summary of consultation undertaken and details of the outcomes of that consultation, and issues raised in submissions received by the committee
- sought expert advice on possible FLP issues with the Bill
- convened public briefings by officers from DNMR and the Department of Environment and Heritage Protection (DEHP) on 25 June and 27 August 2014, and
- held public hearings to hear evidence from submitters and others on 6 and 27 August 2014 in Brisbane, 19 August in Toowoomba and 20 August in Mackay and Townsville.

The briefing officers and hearing witnesses who assisted the committee are listed at **Appendix B**.

[1] Schedule 6 of the Standing Rules and Orders of the Legislative Assembly of Queensland.
[2] Section 93 of the *Parliament of Queensland Act 2001*.

2. Background information on key objectives of the Bill

Background

Governments regulate mineral and energy resource exploration for three general reasons:

1. the mineral and energy resources are owned by the Crown
2. exploration may impact on other existing and future land uses, such as agriculture, or may damage sites of environmental and heritage significance, and
3. exploration may have effects beyond the area being explored, such as on the regional environment and nearby communities (i.e. community-wide costs and benefits).[3]

Queensland is endowed with a wide range of resources.

The mining and petroleum sector in Queensland includes resources of more than 30 billion tonnes of coal and rich deposits of metals, phosphate rock, oil shale and minerals. In 2012-13, it generated $25.6 billion or 8.8% of Gross State Product, and represented 60% of all state exports worth over $26 billion per annum.[4] The competitiveness of resource exploration is considered a key factor in attracting investment and improving the potential for discovering resources.[5] In 2013, Queensland had the second highest exploration activity in Australia, with around 20% of exploration expenditure and land area (behind Western Australia). An international survey of mining companies, by Canadian research group the Fraser Institute, indicates that Queensland's relative ranking (of 27 out of 60 jurisdictions in 2012-13) has been steady over recent times.[6]

Approximately 85% of Queensland land is used for agriculture and grazing, with Queensland's agricultural producers supplying food for both domestic (an estimated 40% of output) and international markets (an estimated 60% of output). In 2013-14, the gross value of production for agriculture, fisheries and forestry is estimated to be $14.7 billion, and represented 16% of the State's overseas exports worth an estimated $8.9 billon per annum (and $3.6 billion for interstate markets).[7][8] The Queensland Department of Agriculture, Fisheries and Forestry strategy aims to double agricultural production, including food production in the State by 2040.[9]

Regulation aims to balance the competing demands of 'co-existence'; of exploring for resources, using the land for other purposes such as agriculture and the preservation of heritage and environmental values. Consequently:

- this can create a wide and diverse stakeholder interest in the exploration approvals process
- the broad scope of policy and regulatory intervention can result in a complex framework of legislation, and
- a transparent regulatory system is needed to demonstrate to all stakeholders that their interests are being considered in a fair and objective manner. [10]

Evidence to recent Productivity Commission inquiries (and subsequently this committee's inquiry) reflects varying views of current regulatory arrangements and options moving forward. Some claim

[3] Productivity Commission 2013, *Mineral and Energy Resource Exploration,* Inquiry Report No. 65, Canberra, p. 2.
[4] Queensland Department of Natural Resources and Mines, *Queensland's mining and petroleum industry overview*, May 2014.
[5] Productivity Commission 2013, *Mineral and Energy Resource Exploration*, Inquiry Report No. 65, Canberra, p. 47.
[6] Productivity Commission 2013, *Mineral and Energy Resource Exploration*, Inquiry Report No. 65, Canberra, chapter 2.
[7] Queensland Department of Agriculture, Fisheries and Forestry *State of Queensland agriculture report*, June 2014.
[8] Queensland Department of Agriculture, Fisheries and Forestry, *State of Queensland agriculture report*, June 2014.
[9] Queensland Department of Agriculture, Fisheries and Forestry, *Queensland agriculture strategy: a 2040 vision to double agricultural production*
[10] Productivity Commission 2013, *Mineral and Energy Resource Exploration,* Inquiry Report No. 65, Canberra, Overview.

that exploration is discouraged by increasing compliance costs, extending approval times and increasing regulatory uncertainty, while others claim that regulations are insufficient to protect heritage, environmental and community values and agricultural uses of the land, and that regulators are not being sufficiently diligent in protecting those values and land uses. [11]

The Productivity Commission concluded that government should set requirements relating to exploration that are proportionate to the impacts and risks, and that processes that impose unnecessary burdens on resource explorers or inhibit exploration can be reformed by:

- simpler coordination
- improving regulatory certainty, transparency and accountability
- making land access decisions that take into account the benefits of exploration to the wider community, and that are appropriate to the level of risk posed by exploration as informed by sound evidence
- addressing state, territory and Commonwealth environmental approvals processes that are duplicative and are not commensurate with the risk and significance of the environmental impacts of exploration, and
- better targeting and enforcement of approval conditions.[12]

These responses are also at the centre of policy initiatives and discussion in Queensland, with respect to various red tape and green tape reduction initiatives and the Modernising Queensland's Resources Acts Program, of which this Bill forms part. The goal is to replace existing legislation with a single, common Act governing all resource tenure.[13]

The Explanatory Notes state that:

> *In late 2012, the Department of Natural Resources and Mines (the department) commenced targeted consultation on the proposal to modernise the State's resources legislation into a single common resources Act. Key stakeholders supported the government's proposal to undertake a multi-year reform process, conditional upon satisfying three fundamental program principles: phased and engaged reform; the retention of existing legislative principles; and no disadvantage unless agreed.*[14]
>
> …..
>
> *This Bill implements the first stage of the [Modernising Queensland's Resources Acts] Program by creating a common provisions Act into which harmonised legislation from the Mineral Resources Act 1989, Petroleum and Gas (Production and Safety) Act 2004, Petroleum Act 1923, Geothermal Energy Act 2010 and the Greenhouse Gas Storage Act 2009 will be progressively transferred.*[15]

Policy objectives of the Bill

The policy objectives of the Bill, as set out in the Explanatory Notes, are to:

- modernise and harmonise Queensland's resources legislation through the Modernising Queensland's Resources Acts Program

[11] Productivity Commission 2013, *Mineral and Energy Resource Exploration*, Inquiry Report No. 65, Canberra, p. 2.
[12] Productivity Commission 2013, *Mineral and Energy Resource Exploration*, Inquiry Report No. 65, Canberra, p. 2.
Productivity Commission 2013, *Major Projects Development Assessment Processes,* Research Report, Canberra, p.11-2.
[13] http://mines.industry.qld.gov.au/mining/modernising-qld-resource-acts-program.htm, extracted 28 August 2004.
[14] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 3.
[15] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 1.

- give effect to the recommendations of the Land Access Implementation Committee requiring legislative amendment to improve the land access framework relating to private land
- implement a consistent restricted land framework across all resource sectors
- establish a new overlapping tenure framework for Queensland's coal and [coal seam gas] CSG industries
- repeal the *Coal and Oil Shale Mine Workers' Superannuation Act 1989*
- reduce the regulatory burden for small scale alluvial miners specifically, and the mining sector generally (mining applications)
- remove redundant requirements imposed on holders of a mining tenement, an authority to prospect or petroleum lease
- enable greater use of CSG produced as a by-product of coal mining (incidental CSG)
- amend the *Mount Isa Mines Limited Agreement Act 1985* to reflect the transition of its environmental provisions to the *Environmental Protection Act 1994* and restructure reporting requirements
- support government and industry action to deal with uncontrolled gas emissions from legacy boreholes.[16]

[16] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 3.

3. Examination of the Mineral and Energy Resources (Common Provisions) Bill 2014

The Bill proposes to create a Common Provisions Act into which harmonised legislation from the five existing resources Acts will be progressively transferred. The Bill also includes wide ranging legislative amendments to mining and mining related tenure, approvals and land access laws to achieve discrete policy objectives.

The committee considered the clauses of the Bill in their entirety and as against the existing legislation. A summary of the committee's review is detailed at Appendix C.

Sections 4-9 of this report discuss the main issues that were raised during the committee's examination of the Bill, and which the committee wishes to bring to the attention of honourable members.

Should the Bill be Passed?

Standing Order 132(1) requires the committee to recommend whether the Bill should be passed.

After examining the form and policy intent of the Bill, the committee determined that the Bill should be passed with consideration of amendments. As has been expressed by the Productivity Commission around calls for consolidation or harmonisation of resource legislation, and in the evidence received in the course of this inquiry from the department and other stakeholders, there is a need to avoid lowest regulatory approach outcome.[17]

> *This is quite a difficult Bill in many ways for Cotton Australia to present on because we have a natural sympathy for trying to streamline things and relieve the heavy hand of government wherever possible. We are like the resource industry and the energy industry in many ways. We turn resources that are owned by everyone—water, sunlight, soil—into wealth for our growers, for their employees, for their communities, for our regions, for our state and for our nation. At the same time, we are also very mindful that we need to have balance…With this consolidation it is absolutely critical that the golden rule for this committee is to say, 'Let's make sure that as we bring over the various provisions of the acts the highest level of protection that is available in any of the acts must come over to the consolidated act.' We cannot see any further erosion of landholder rights. Nobody looking at the balance between landholders and mining companies anywhere in Australia, but here we are in Queensland, would argue that landholders have the upper hand and therefore any erosion will be extremely detrimental to the industries.*[18]

Whilst the reforms proposed in the Bill were criticised by some stakeholders, these reforms, having been collaboratively developed with industry to maximise the value and contribution of the resources sector to Queensland, were welcomed by submitters from this sector.

> *A large number of the amendments in the Bill will go a long way to reducing unnecessary red tape for industry while also maintaining a reliable and robust regulatory framework… QRC is highly supportive of the MQRA Program and its objectives to streamline all five resource Acts into a common provisions Act. This aim is ambitious yet very achievable given the government's commitment to providing a process that engages closely with industry, is carefully paced to ensure adequate planning and discussion can take place and constantly keeps in mind the three principles agreed with industry.*[19]

[17] Productivity Commission 2013, *Mineral and Energy Resource Exploration,* Inquiry Report No. 65, Canberra, p.9-10. DNRM 2014, *Correspondence*, 18 August, p.1.
[18] Murray, M., 2014, *Draft public hearing transcript*, 19 August, p. 13.
[19] Queensland Resources Council, *Submission no 3, p.1.*

In general, [the Association of Mining and Exploration Companies] AMEC is supportive of the Modernising Queensland's Resources Acts (MQRA) program being undertaken by the Department of Natural Resources and Mines (DNRM), of which this Bill forms a critical part. The vast amount of policy that this Bill seeks to implement is vital to maintain a strong mineral exploration and mining sector in Queensland and must be closely scrutinized for any unintended consequences that will decrease the effectiveness of the Bill.[20]

Committee Comment

The committee recognises the extent of targeted consultation that has been undertaken by government in respect of the Modernising Queensland Resource Acts Program, and in particular the establishment of the Land Access Implementation Committee in February 2013 with peak resource and rural industry representatives.

The progression of the Bill towards consolidation of administrative processes from existing resources Acts is commended by the committee, as are some of the improvements proposed in the Bill such as the extension of the Land Court jurisdiction to consider conduct of the parties in negotiating conduct and compensation agreements and the noting of the agreements on the property title.

Notwithstanding this, evidence presented to the committee through written submissions and hearings indicates that some aspects of the Bill have not met the principle of 'no disadvantage'. This does not extend to the Bill in its entirety; the intent of the Bill to reduce the complexity of the legislation, and associated costs, has support.

The committee accepts the proposition that there will invariably be some parties who are disaffected by land use decisions. However, the regulatory framework needs to support a balance of interests and relationships between parties to achieve the desired outcomes of efficiency and effectiveness in exploration and land management.

The committee considers that the transitional process of the Modernising Queensland Resources Acts Program provides an opportunity for further consultation towards greater acceptance and/or agreement, without jeopardising other aspects of the consolidation and harmonisation across the resource Acts.

Recommendation 1

The committee recommends that the Mineral and Energy Resources (Common Provisions) Bill 2014 be passed with consideration of the amendments recommended in this report.

[20] Association of Mining and Exploration Companies, *Submission no. 13* p.1.

4. Mining Applications

The Bill proposes amendments to the mining lease tenure and environmental authority application and approval frameworks under the *Mineral Resources Act 1993* and *Environmental Protection Act 1994* respectively. The proposed reforms cover matters including the boundary identification regime, lease applications, small scale mining lease applications during moratorium and notification and objection processes for mining operations.

The Explanatory Notes state that the intent of the reforms as follows:

> *The government is committed to reducing red tape for the mining industry. The Bill delivers on this commitment by providing a more flexible application process, reduced costs and greater certainty about assessment timeframes. While these amendments were initiated to assist the small scale alluvial mining sector, their implementation under the Mineral Resources Act 1989 mining lease tenure and Environmental Protection Act 1994 environmental authority frameworks will also benefit the broader mining sector.*[21]

There was broad general support in regards to the first two areas of reforms – the removal of prescriptive boundary identification requirements, and lifting of current restrictions on the size and area for small scale mining applications. As noted in the Explanatory Notes, these reforms are expected to deliver savings for resource operators and the government.[22]

The remaining reforms in this area, specifically those relating to notification and objection, were the subject of widespread concern arising from landholders, the agriculture sector, environmental and community organisations, legal professionals and general members of the community.

Current mining application framework

Notification

Currently under the *Mineral Resources Act 1989* all mining lease applicants must notify a broad range of parties about their application. The notification process starts with the requirement under the *Mineral Resources Act 1989* for the applicant to provide a copy of their application to any landholder within the proposed mining lease area and over whose land access will be required. The department then issues a Certificate of Public Notice (CPN) to the applicant. The CPN is posted on a datum post on the land applied for, and provided to affected landholders, the relevant local government/s and to each holder or applicant for, a resource permit over the land. The applicant is also required to advertise the CPN in an approved newspaper circulating in the area.

When applying for a mining lease, the applicant must also apply for an environmental authority. This application can be a standard application, a variation application, or a site-specific application. A mining lease cannot be granted until the environmental authority has been issued.

Part 2, clauses 121-124 of the *Environmental Protection Act 1994* describe the types of applications for environmental authorities as follows:

> ***121 Types of applications***
>
> *The types of applications for an Environmental Authority are—*
>
> *(a) standard applications; and*
>
> *(b) variation applications; and*
>
> *(c) site-specific applications.*

[21] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 8
[22] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 9.

122 What is a standard application

An application for an Environmental Authority is a standard application if—

(a) the Environmental Authority is to be subject to the standard conditions for the authority or the environmentally relevant activity for the authority; and

(b) all proposed environmentally relevant activities for the Environmental Authority are eligible [Environmentally Relevant Activities]ERAs.

123 What is a variation application

An application for an Environmental Authority is a variation application if—

(a) the application seeks to change the standard conditions for the Environmental Authority or the environmentally relevant activity for the authority; and

(b) all proposed environmentally relevant activities for the Environmental Authority are eligible ERAs.

124 What is a site-specific application

An application for an Environmental Authority is a site-specific application if any of the proposed environmentally relevant activities for the authority are ineligible ERAs.

Once the environmental authority application has been accepted, irrespective of which type of environmental authority is being applied for (standard applications, variation applications and site-specific applications) a notice of application must be published by the applicant in a newspaper circulating in the general area of the proposed mining lease (however the *Environmental Protection Act 1994* specifies that this must be done together with the CPN for the mining lease). Site-specific application environmental authorities must also post the application on a website established by the applicant.

Where an environmental impact statement (EIS) is required for a mining activity under the *Environmental Protection Act 1994*, further notification of the application for an environmental authority is not required but separate notification of the *Mineral Resources Act 1989* will still be required. Where an EIS is required for a mining proposal under the *State Development and Public Works Organisation Act 1971*, notification is also required under the *Environmental Protection Act 1994* for the environmental authority application and *Mineral Resources Act 1989* for the mining lease application. As the EIS processes precede the information and notification stages for mining lease and environmental authority applications, it is often the case that multiple rounds of notification may for a single project may occur.

Objections

Any entity may make a submission raising objections to any mining lease application under the *Mineral Resources Act 1989*. The grounds for an objection to an application for a mining lease are not identified or limited in the legislation. These objections are considered by the Land Court prior to a decision on the application by the Minister. The matters that the Land Court 'must take into account and consider' when making a recommendation to the Minister are prescribed in the *Mineral Resources Act 1989*.

Any person can lodge a submission about a mining environmental authority application under the *Environmental Protection Act 1994*. Submissions to the environmental authority application must be considered by the administering authority (DEHP for mining environmental authorities) in reaching their decision, and deciding what conditions to impose on a draft environmental authority (if any). The decision, and any draft environmental authority, must then be given to the applicant and any submitters. The submitters can then elect to lodge an objection to the administering authority's decision and any conditions on the draft environmental authority.

There is a separate submission process which applies to EIS processes. A person who lodges a submission to an EIS under the *Environmental Protection Act 1994*, where one is required, is taken to be a submitter for the environmental authority and may also lodge an objection.

Objections to environmental authorities are heard by the Land Court at the same time as they hear any objections to the mining lease application under the *Mineral Resources Act 1989*. Once the Land Court hears any objections, it may make recommendations to the administering authority about the decision to issue a draft environmental authority and any conditions that may apply. Any appeal about the Land Court's recommendations is made to the Land Appeal Court who would also make recommendations to the administering authority. Once the administering authority receives the Land Court's or Land Appeal Court's recommendations the authority decides and issues a final decision and the environmental authority (unless the decision is to refuse the application). A copy of the final environmental authority is provided to the Minister.

Comparison to other jurisdictions[23]

Each Australian jurisdiction's notification and objection regime reflects the relationship between their respective mining and environmental legislation and in some jurisdictions also their planning legislation.

All Australian jurisdictions include a requirement to publicly notify applications either under mining legislation, environmental legislation or planning legislation. In South Australia and Western Australia if notice is given under either the mining or environmental Act it is taken to be notice under the other Act. In some jurisdictions (South Australia) notice is given by the government not by the applicant.

South Australia does not have a general objection provision rather it relies on an outcome based application process whereby the applicant is obliged to deal with all issues raised until they are resolved or until no further corrective action is possible, practicable or will provide any additional benefit. In the event there are outstanding/unresolved issues then either the application will not be progressed by the administering authority until performance standards are met or, if no further action can realistically be taken to further mitigate the issue, then the application is either approved or refused. In this event there are only limited appeal rights – i.e. to affected landholders.

All researched jurisdictions require land owners to be advised and consulted and provide a mechanism for the affected land owner to appeal or object. Most jurisdictions also have specific provisions in regard to local government although inclusion of a specific right to object is not as universal as for land owners.

Issues with current notification and objection provisions

According to departmental documentation, issues with the current notification and objection processes include:

- Duplicated processes under the *Mineral Resources Act 1989* and *Environmental Protection Act 1994*
    - 'Notification under the *Environmental Protection Act 1994* is not recognised under the *Mineral Resources Act 1989*, as a result, public notification is required under both these acts for all mining lease and mining environmental authority applications regardless of risk and scale of impact of the proposed mine'.[24]
    - Large scale mining proposals, such as major coal mines, are generally subject to an EIS under the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Under these frameworks there is broad public

[23] DNRM, 2014 'Mining lease notification and objection initiative discussion paper', pg. 5
[24] DNRM, 2014 'Mining lease notification and objection initiative discussion paper', pg. 6

notification and consideration of submissions of both the Terms of Reference and the EIS. This notification is not recognised by either the *Mineral Resources Act 1989* or *Environmental Protection Act 1994*.[25]

- Despite the eligibility criteria and conditions for low risk 'standard' and 'variation' mining Environmental Authorities having been subject to public consultation when they were being developed, standard applications and variation application mining Environmental Authorities are still required to be notified on a development by development basis.[26]

- No account for size or impact of the mining operation. '… as a result smaller operations that are unlikely to have a significant or widespread impact are required to follow the same process as a large-scale operation anticipated to have extensive impacts'.[27]
- Redundant and outdate notification practices
  - Duplicated issue of notices by the department (a Certificate of Application then a CPN), and a requirement to provide copies of each to relevant landowners which not only creates increases cost and effort for applicants but may create uncertainty and confusion for landowners as a result of receiving multiple copies of the same application.[28]
  - The requirement to attach notices to the datum post is time consuming and of questionable value for the purposes of notifying the public and affected stakeholders particularly where the claim relates to remote or regional areas.[29]
- Broad scope of ground on which an objection can be made
  - The *Mineral Resources Act 1989* does not identify any grounds on which an objection must be based, and the matters the Land Court must have regard to are considered extremely broad in extent and vague in nature.[30]
  - Analysis has shown the major concern of landholders to mining lease proposals is compensation and environmental (including air, noise, waste, water, vibration and light) impact and the major concern of other stakeholders is the environmental impact of the proposed mine.[31]
  - Objections are often made under the *Mineral Resources Act 1989* that should arguably be considered under another jurisdiction (e.g. environmental issues under the *Environmental Protection Act 1994*) or on the technicalities of the mining operation, geology and financial considerations.[32]

Proposed mining application framework

Clauses 244-266, amending the *Environmental Protection Act 1994* and clauses 391-445 amending the *Mineral Resources Act 1989* give effect to the changed regime for notification and objection rights on mining applications.

In effect the amendments mean only directly impacted persons and entities, defined as 'affected persons', will retain notification and objection rights for ***all*** mining applications under the new framework, whilst public notification and the opportunity for public objections will be limited to site specific mining activities only (i.e. applications for an environmental authority under the *Environmental Protection Act 1994*). There will be no public notification or objection opportunity

[25] DNRM, 2014 'Mining lease notification and objection initiative discussion paper', pg.6.
[26] DNRM, 2014 'Mining lease notification and objection initiative discussion paper', pg.6.
[27] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 9.
[28] DNRM, 2014 'Mining lease notification and objection initiative discussion paper', pg.7.
[29] DNRM, 2014 'Mining lease notification and objection initiative discussion paper', pg.7.
[30] DNRM, 2014 'Mining lease notification and objection initiative discussion paper', pg.8.
[31] DNRM, 2014 'Mining lease notification and objection initiative discussion paper', pg.7.
[32] DNRM, 2014 'Mining lease notification and objection initiative discussion paper', pg.8.

under the *Mineral Resources Act 1989* in relation to the grant of the mining tenure (neither a mining claim nor mining lease).

The Explanatory Notes justify the removal of existing notification and objection rights as follows:

> *The current mining lease application process is being amended to remove duplicative and redundant provisions and to adopt a risk based approach to regulation, which will reduce costs for industry while maintaining the necessary requirements for government assessment and appropriate community input and appeal rights.*[33]

Further an argument cited during the committee's inquiry process was that the current process has increasingly been used to delay projects, affecting investment in the sector. The Queensland Resources Council (QRC) asserted that there was evidence to suggest that public objection processes in some cases were being abused to delay projects and/or deter project investment:

> *The right to lodge an objection against a mining tenement application and have it considered by the Land Court is currently completely unrestricted by the Mineral Resources Act 1989 in relation to both the content of the objection and the standing of objectors, leaving the process open to abuse.*[34]
>
> *QRC wholly supports the amendments in the Bill to streamline notifications and objections that aim to streamline processes but ensuring genuine concerns on matters of environment regarding resource projects have a pathway for comment and consideration. QRC believes that the Queensland Government has a role to play in preventing vexatious objections and appeals against what is a resource that belongs to the people of Queensland.*[35]

However landowners and other representative groups took offence to these claims and disputed that the current framework was being misused to 'vexatiously' delay projects:

> *The amendments to section 260 of the Mineral Resources Act 1989 are among the most concerning amendments made by this Bill as there is no evidence to justify the amendments. We note that the main reason for the amendments was to remove the ability for vexatious objectors to lodge objections and delay an application, however, as we have previously submitted, this is based on no factual data.*[36]
>
> *I recall that the Queensland Resources Council was at some pains to point out at the last committee hearing, as others have, that the amendments were designed to stop frivolous and vexatious objections. There seems to be quite a bit of discussion about that. But quite frankly, it is all much ado about nothing in my view. Either an objection is frivolous and vexatious, or it is not. If the true intention is to stop vexatious objections, then why do we not put in some precautions to allow that, not just simply throw the baby out with the bathwater and stop everyone from objecting, which is essentially what is happening? It seems to me to be quite incongruous for an individual to be able to have a say, or to have more rights on having a say under the Sustainable Planning Act than they would for a state proposal to extract a state held resource. If you want to put something next to my house here in town, if you want to change the use, you have to publicly notify. You have to tell your neighbour and your community what is going to happen. If you want to put a bloody great coalmine on the outskirts of Oakey, the proposal is that you do not have to say anything about it or if you want to put in a small mine, you do not have to say anything about it.*[37]

DEHP confirmed that there was little evidence to support the claims:

[33] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p.24.
[34] Queensland Resources Council, *Submission no.3*, p.17.
[35] Queensland Resources Council, *Submission no.3*, p.16.
[36] Wide Bay Burnett Environmental Council, *Submission no.95*, p.2.
[37] Martin, M., 2014, *Draft public hearing transcript*, 19 August, p.21.

'There is no evidence of vexatious litigation in relation to those low level, what we call standard applications. In fact, we undertook an analysis of all the submissions that we had received on those types of applications back to 2009 and we did not receive one objection from anyone who was not a landholder directly affected by the mine. So it is not an area of broad community concern, those low-impact mines. Of course, we have received a lot of objections for the larger-impact mines and we are not affecting the notification and objection rights in relation to those.[38]

The Land Court further confirmed that, in its experience, there was no evidence to suggest that the courts processes were being used to delay project approvals:

In the court's experience, there have not really been a lot of stalling tactics. If there is, it generally comes from both sides. It is not just landowners or objectors who generally are not ready to proceed; it is also often the mining companies that are not ready. Having said that, the main tool that the court has to deal with delays and putting parties to unreasonable expense and delay is the power to award costs. A party can agree to seek costs against the other party if that is something they perceive as happening.[39]

Based on the evidence provided in submissions and by witness at the public hearings, the committee has identified and analysed three key issues relating to the notification and objection amendments in the Bill. The first area of concern was the impact on landholder and community rights caused by the removal of wider notification and objection provisions.

Shine Lawyers argued this point in their submission:

'… in our view, it is a fundamental community right to know what mines are proposed in Queensland. Mines by their very nature frequently have significant impacts on communities and individuals whether that be from an environmental, social, community, economic or other perspective and any individual or member of the community should be able to know what mines are proposed and have a right to have a say about the conditions that govern them... From a natural justice perspective, a person who will be or is likely to be affected by a decision should have a right to object or make submissions on that decision prior to it being made. The removal of notification for applications which are not site-specific applications is a blatant denial of natural justice.[40]

The Environmental Defenders Office Queensland (EDOQ) similarly raised significant concern for the removal of public rights:

Mining and gas extraction projects, large and small, can have serious and long lasting impacts on rural businesses, communities, the environment, the public, and individuals. This Bill if implemented would strip away key public and private rights and puts the interests of the mining and resources sector far ahead of the rights and interests of individuals, the public, the community at large and the environment. The Bill should be rejected or amended to ensure that it has sufficient regard to the rights and interests of individuals, the public, the community at large and the environment as opposed to the current Bill which drastically diminishes those rights and interests…. All persons and groups, should, as they are currently entitled to, be afforded the opportunity to have input into a mine and object to the independent Land Court concerning any proposed mining lease and environmental authority. The proposal to remove those public rights for 'non-site specific applications', i.e. for approximately 90% of mining proposals, is unacceptable. The impacts of a mine do not stop at the boundary of the mining lease.[41]

[38] Nichols, E., 2014, *Draft public briefing transcript*, 25 June, p. 8.
[39] Farrell, L., 2014, *Draft public hearing transcript*, 27 August, p. 2.
[40] Shine Lawyers, *Submission no.15*, p.16.
[41] Environmental Defenders Office Queensland, *Submission no.*5, p.2-3.

Various landowners and landholder representative groups including Mr Graham Slaughter, Ms Juanita Johnston and Mr Shannon of the Basin Sustainability Alliance (BSA) submitted:

> *Whilst it is stated that this amendment is being made to address an inequality to miners and also because of previous objections which have been lodged without evidence… I am concerned that this provision will take away the right of neighbours and members of the public to raise concerns about mining operations that, whilst they occur on private property, will never the less, impact them through the movement of machinery on public roads as well as issues of noise, dust and extended environmental damage beyond the property on which the operation is based. It is my opinion that members of the community should have the right and opportunity to consider very carefully mining operations that will occur in their area no matter how minor they may be considered to be… I believe public scrutiny is essential to building good relationships between mining companies, landholders and the general community.*[42]
>
> *…Please note that the current mining lease notification and objection process is the only safeguard for both the mining industry and the community that gives the mining industry our social acceptance.*[43]
>
> *This is flying under the radar. This is the most serious potential incursion on landholder rights I could imagine, and the lack of attention that this has had to date has been staggering… The four principles that the Legislative Standards Act talks about are, firstly, where administrative decisions affect rights and liberties, whether they are subject to appropriate review. It just screams out then that, when you remove the right to object, you have not got a right of review. It says that it 'does not adversely affect rights and liberties'—you cannot get more intrusive on rights and liberties than what you are doing. You are forcing people to allow people on to their property for the greater good—fine. It must also provide 'for the compulsory acquisition of property only with fair compensation', so surely you must be mindful to protect the position of the landholder to ensure that that happens.*[44]

Mr Penton of the Queensland Murray Darling Committee (QMDC) argued that in many circumstances community groups played an important role supporting and informing landowners in relation to notification and objection processes for mining activities:

> *At the moment, if you take away the rights of the broader community who have a spoken view on developments from a broader scale perspective, then you are restricting our right to have a conversation around what is right and proper in our communities. My other suggestion is around information… when you start to get lots of information, particularly EIS that come forward and they are several volumes thick and can take up car loads of paper, not everybody has the time to go through those documents and provide good, constructive views. I would think that, with any constraint around this, most of our landholders who would be primarily affected under this act would not have the time or energy to sift through all the paperwork that is required and understand what it is. I also suggest that local governments do not have the capacity to have the people in place to pore through all the technical data that sits outside of those two organisations—the landholder and local governments—to have an impact and to provide advice on what is good and what is bad. Therefore, I would implore the committee to rethink who the affected entities are who should be notified and participate in the debate, particularly around large scale developments. That is notwithstanding that some small scale developments also may need to have viewpoints put on them.*[45]

[42] Mr G. Slaughter, *Submission no.18* p.1-2.
[43] Ms Juanita Johnston, *Submission no.23* p.1.
[44] Shannon, P., 2014, *Draft public hearing transcript*, 19 August, p.9-10.
[45] Penton, G., 2014, *Draft public hearing transcript*, 19 August, p.18

Many disputed that the objection and notification rights which remained under the *Environmental Protection Act 1994* were appropriate, and argued that the complexity and restrictions which exist under the *Environmental Protection Act 1994* in relation to making submissions and having matters heard by the Land Court meant that many of the critical issues for landowners and community members may not be addressed through environmental conditions.

For example, the Western Downs Regional Council (WDRC) commented in their submission:

> *WDRC is well aware of the extensive changes made recently to the relevant procedures [for environmental authority applications] that make submissions and objections a relatively complex process. For instance, the objector may need to have lodged a submission to the relevant EIS in some cases, may be exposed to costs and is requested to adhere to the original grounds of objections at all times… in any event the amendments effectively remove any ability to object at all to "small scale mining".*[46]

Ergon Energy provided an example of how the current notification and objection framework has provided benefit and protection to their organisation and raised concern that the same may not continue if objections remained available only for site specific applications under the *Environmental Protection Act 1994*:

> *Ergon Energy has recently been forced to object to the grant of a mining lease, where the mining company had inadequately planned for its impact on Ergon Energy's infrastructure. In that instance, the mining company proposed mining directly underneath Ergon Energy's poles and power lines. This was despite a report showing that significant subsidence was likely to be caused in the area. The subsidence would very likely cause Ergon to be in breach of the Electrical Safety Act 2002, as well as providing possible harm to mining staff, the land owner, or public traversing the area. If the mining had continued, this could have been entirely without Ergon's knowledge as these poles are generally inspected on cycles ranging from 3 to 5 years. Until Ergon Energy lodged an objection with the Department of Natural Resources and Mines, there had been an impasse in negotiating a satisfactory outcome with the mining company to avoid or manage the likely impacts on Ergon Energy's infrastructure. This example illustrates the advantage of objection rights and the even more significant advantage of up front notification to Ergon Energy.*[47]

Mr Shannon, of the BSA, added:

> *I will come to the environmental authority objection because, frankly, it is nothing like the objections that are under the Mineral Resources Act. There are different grounds under the Mineral Resources Act. There are economic grounds, there are social grounds, there are broader grounds than what is under the Environmental Protection Act. For the minister to come out and say that that adequately addresses the fundamental principles of natural justice here is, with great respect to him, because I have respect for him, absolutely ludicrous.*[48]

Cotton Australia argued in their submission that the two-part process for mining applications was important to transparency and democratic decisions making:

> *We support the current two-part process giving stakeholders an opportunity to have their exemptions heard at both the mining lease stage and the environmental authority stage. It is part of the "checks and balances".*[49]

[46] Western Downs Regional Council, *Submission no.288, p.*7.
[47] Ergon Energy, *Submission no.14*, p.2-3.
[48] Shannon, P., 2014, *Draft public hearing transcript*, 19 August, p.10
[49] Cotton Australia, *Submission no.6*, supp. p. 4.

We understand, and sometimes as an industry, we to are subjected to frivolous complaints and objections, that add time, cost and frustration to a process, but as a country we always need to be very careful when considering limitations on our democratic rights…I urge the committee to consider other ways to manage the cost and frustration of frivolous claims.[50]

This view was affirmed by the Productivity Commission in their '*Inquiry Report No. 65: Mineral and Energy Resources Exploration*', where they commented on importance of transparent decision making processes:

Regardless of the allocation mechanism employed, exploration licences are rights to the potential discovery of valuable resources. Administrative decisions on the allocation of those licences are therefore at risk from undue influence from interested parties. The use of transparent processes when allocating exploration licences is good regulatory practice and reduces the risk of inappropriate decisions or corruption.[51]

In addition the committee heard numerous times throughout its consultation process concern that size and scale of a mining operation, and more importantly the classification of an environmental authority, does not equate in any way to the risk and impact on the landholders and residents in the broader area of a mining tenure.

It would seem to be to be extremely difficult to consider any mining operation to be minor when it cannot fail to have some impact on persons and properties wider than the property on which the mining operation will take place.[52]

To talk about these mines as small-risk mines just totally underplays the impact that they have on landholders. If you have got a kitty litter mine, which is the type of clay that is processed, if you have got bentonite, if you have got opals or whatever, you name it, then what is happening on your property is everything to you, but now we are basically saying, 'Sorry, folks, you've got no right of objection.'[53]

The WDRC commented on their experience with regards to the wider community/regional impacts of mining activities:

It has been near impossible for WDRC to have been able to foresee all the implications of the emerging and rapidly expanding energy sector within our region and equally impossible for WDRC to have anticipated the extent of "flow-on" effects of that expansion.

Invariably mining in any form, including the development of quarries, brings a host of local authority consideration into play not all of which are within our jurisdiction or control. Resource develop can involve far ranging implications well beyond the immediate mine area including incidental impacts attributable to the need for workers accommodation villages, airports, water supply for workers and other purposes, increased sewerage obligations, the increase of over dimensional trucks and traffic, road re-routing or increased traffic implications requiring the opening of new roads, and a host of other issues usually within the purview of local authorities… Because of this array of impacts, local authorities need and expect, and are invariably expected by the community, to have involvement in the decision making.

We have therefore proposed that our rights under the MRA should in fact be expanded [under the Mineral Resources Act 1989], so we are naturally deeply concerned to have that very legislation amended to remove grounds of objection rather than to expand them.[54]

[50] Cotton Australia, *Submission no.6*, supp. p. 4.
[51] Productivity Commission 2013, *Mineral and Energy Resource Exploration*, Inquiry Report No. 65, Canberra, p.12.
[52] Mr Graham Slaughter, *Submission no.18* p. 1-2.
[53] Shannon, P., 2014, *Draft public hearing transcript*, 19 August, p.10
[54] Western Downs Regional Council, *Submission no.288, p.*3-5.

Further, a number of research papers have pointed to evidence which may indicate that the DEHP's assessment of environmental authorities may not be sufficiently advanced to sort and assess the categories and risk of mining applications, such that there is an overreliance on public submissions and objections to inform and support their decision making at present.

For example, the Queensland Auditor General reported in its recent review of 'Environmental regulation of the resources and waste industries' that:

> *EHP has no processes in place to ensure applicants do not incorrectly apply for environmental authorities with standard conditions (level 2) when their operations should require variations or site-specific conditions (level 1)…*
>
> *There is a risk that, over time, some smaller operations could become larger and require site-specific environmental authorities (level 1) without being detected. Because EHP has no proactive inspection program for level 2 sites, an incorrectly classified site is unlikely to be detected unless a complaint or incident is reported.*[55]
>
> *…we found little evidence to demonstrate that EHP is effective in detecting non-compliance, other than in response to public complaints or industry reported incidents.*[56]

The second key area of concern related to the restriction of objection rights for mining tenure applications to those who fit the new definition of 'affected persons' under the *Mineral Resources Act 1989*. The key concern was that this definition was too narrow and did not acknowledge the possibility and reality of impacts to other adjoining and nearby properties.

For example, Property Rights Australia, Wide Bay – Burnett Environment Council and others argued that the definition for 'affected owners' was too narrow for the purposes of notification and objection:

> *Now that the proposed Bill has confirmed that "directly affected" landowners are only those within the footprint or who provide access to a mining lease our worst fears have been realised. The effects of some mining projects are so wide ranging that PRA would contend that there are many neighbours and even non- neighbours who will be more "directly affected" than many simply offering access. Some will be on the same water course, aquifer or connected aquifer. Others will suffer production losses and/or loss of amenity.*[57]
>
> *…to propose that only the landholders who have exploration permits and/or mining leases occurring directly upon their property are 'directly affected' is simply unacceptable. When a new development or material change of use is proposed in a Local Government Area, public notification is open to the entire community in addition to the right to lodge objections to development approvals in the Planning and Environment Court.*[58]
>
> *That is a real problem for the people affected by small mining. It is a bigger problem for people affected by large mines. There is absolutely no doubt—and I work in this field all of the time—that the neighbours of large mining projects are the ones who have the most to fear because of the likelihood that their groundwater will be adversely affected, that they will have dust and noise and blasting—those sorts of disturbances—and excessive light. I was at a mine site in Central Queensland on Thursday and that has been an enormous problem there where it is like daylight 24 hours a day. I am sure that has a bad effect on the normal habits of the cattle, for example, in terms of the feeding and resting and so forth*

[55] Queensland Audit Office, Environmental regulation of the resources and waste industries Report 15 : 2013–14. p.31.
[56] Queensland Audit Office, Environmental regulation of the resources and waste industries Report 15 : 2013–14. p.26.
[57] Property Rights Australia, *Submission no.*202, p.2.
[58] Wide Bay Burnett Environment Council, *Submission no.*95, p.2.

that they would normally be doing if they were undisturbed, but the place is lit up like a Christmas tree 24 hours a day.[59]

In relation to 'affected persons', the department responded[60]:

The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general.

The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill.

....

The Bill also proposes that notification of mining lease applications under the Mineral Resources Act 1989 is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application.

The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available.

As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.

The department further advised that the Commonwealth *Native Title Act 1993* requires that native title claimants be notified when an application is made over relevant land.[61]

The third key area of concern was the limiting of the grounds or matters to which an objection by an affected person may object.

Clause 420 also introduces provisions at s 260(4) of the *Mineral Resources Act 1989* to restrict the scope of objections to mining leases.

260 Objection by affected person

(4) However, the affected person may object only in relation to the following matters—

(a) if the affected person is the owner of land the subject of the proposed mining lease—the matters mentioned in section 269(4)(a), (b), (c) or (d)(i) or (iii);

(b) if the affected person is the owner of land necessary for access to land mentioned in paragraph (a)—the matters mentioned in section 269(4)(a) or (e);

(c) if the affected person is the relevant local government—the matters mentioned in section 269(4)(a) or (d)(ii).

[59] Houen, G., 2014, *Draft public hearing transcript*, 19 August, p.6.
[60] DNRM 2014, *Correspondence*, 18 August.
[61] DNRM 2014, *Correspondence*, 18 August, p.15.

Mr Houen submitted:

> *That is a problem in that at the moment a person can object to such applications on the basis that the applicant has a bad record, that there is not any mineral there at all and it is a sham mining lease application; it is just somebody looking for a place to live. Under the new rules, you will not be able to object to any of those things. This is a fundamental issue… The grounds of objection for those who still have some right to object under the changes are pathetic. They have nothing to do with the day-to-day variables and problems that arise from mining. They are academic issues. You cannot advance any effective evidence on them and people who try to do so are likely to have costs awarded against them in the Land Court because they are not able to sustain their objections with evidence.*[62]

Mr Penton of the MDBC submitted that it is a matter of equality that landowners and communities have the same right to base objections on catchment or region wide impacts, when resource companies often argue points of community wide benefits:

> *The fact is that often the benefits proposed from a resource development are talked about in terms of the economy of the region—how it would help the region. It is not just going to help a particular site, or an individual landholder. Often, the proponents of resource sector developments talk about the jobs being created in towns nearby et cetera. So it would seem reasonable that the region needs to have a say on a proposed development if it is going to impact on the whole region, not on a specific site. So that area of ability to participate, whether you are the directly affected landowner or a range of other people in the community, this Bill is a step in the wrong direction, not the right direction.*[63]

Mr Martin of Shine Lawyers stated at the Toowoomba public hearing:

> *The next is that those who can object will have their rights restricted. So what we are going to find is that, under the Bill, an affected landholder can object only on the following grounds: provisions of the act have been complied with, the operations conform with sound land use management, the operations are an appropriate land use having regard to current and future use of the land, the operations are an appropriate use having regard to the impact of the activities that are held on the surface of the land, the operations are appropriate having regard to the impact on the activities on the land. It is reasonably wide but it is not as broad as it was before. Previously, it was any ground the landholder can object on.*
>
> *Not only that, under the Bill an affected access landholder—so I have just mentioned landholders who are within the area of the mining lease—if you are an affected landholder with access, the only ground on which you will be able to object will be if the act had been complied with and access to the land subject to the lease is reasonable. There are only two grounds for that landholder.*
>
> *Councils are allowed to appeal. I thought, 'That's great. That might give us some protection.' Would you believe this: all council can object on is the provisions of the act have been complied with and the operations are appropriate having regard to the impact of the activities it will have on any infrastructure owned by the local government. So all they have to be concerned about is the local government owned facilities—not whether it is going to be good for their community, not whether they want it; just whether or not it is going to have an impact on the local government infrastructure. So that is our second hit.*[64]

Finally the committee considered what impact the removal of boundary identification requirements may have with respect to public notification. Whilst physical pegging of mining area boundaries and

[62] Houen, G., 2014, *Draft public hearing transcript*, 19 August, p. 6.
[63] Penton, G., 2014, *Draft public hearing transcript*, 19 August, p. 19.
[64] Martin, G., 2014, *Draft public hearing transcript*, 19 August, p. 22.

markings on datum posts are arguably a crude and inefficient measure, it is recognised that boundary notification served some purpose in assisting landowners identify and visualise proposed mining areas. As noted in the Explanatory Notes '*contemporary identification methods mean that physically marking the area may not be necessary in all cases*' and '*innovations and improvements in geospatial and mapping systems enable accurate identification of an area of land remotely and Global Positioning System (GPS) tools can be used to easily identify boundaries on site*'.[65]

However it is important that, in the absence of onsite boundary identification requirements, all members of the public have access to information and tools to assist them identify and visual proposed mining areas. This point is supported by the Productivity Commission who noted the following in their 'Inquiry Report No. 65: Mineral and Energy Resources Exploration':

> *As a general principle, the Productivity Commission considers that information on the location of existing and prospective licences should be made available to those who wish to access it. It would be appropriate for all jurisdictions to provide online public databases that allow users to enter an address and find out or be alerted when exploration licences exist or have been applied for in that area.*[66]

In this regard, the Productivity Commission recommended (Recommendation 4.1) the following:

> *Regulators of exploration activity should create public databases which would allow any interested user to know where exploration licences exist or have been applied for. The public database should be map-based and facilitate address-based searches. The system should allow interested parties the option of being automatically notified if exploration licences are allocated or applied for in a particular area.* [67]

Committee Comment

The committee notes that the extent of change proposed with respect to mining applications extends beyond the consolidation and harmonisation of the existing resources Acts; it seeks also to progress a risk-based approach that is proportionate to the impacts and risks associated with the nature, scale and location of the proposed exploration activity. The committee notes that this is consistent with the view of good regulatory practice by the Productivity Commission at a national level in respect of its inquiries into both mineral and energy resources exploration, and major projects development assessment processes.

The committee acknowledges the concerns raised by stakeholders through written submissions and in public hearings. However, the regulation of exploration is a legitimate policy area available to government to influence the level and nature of exploration, and the committee notes the efforts to date with respect to the green tape reduction program and past reforms to resources Acts to introduce a more streamlined approach to the administration of applications.

The committee commends the department's release of Queensland Globe and Mines Globe, as a mapping and data interactive tool under the government's open data strategy. The committee accepts that it provides a contemporary approach to boundary identification requirements proposed for removal under this Bill, alongside the discretionary power to require physical monuments in individual circumstances. The committee supports a further use for this application to allow any interested user to know where exploration and resource authorities have been applied for, as per the Productivity Commission's recommendation.[68]

[65] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 8.
[66] Productivity Commission 2013, *Mineral and Energy Resource Exploration*, Inquiry Report No. 65, Canberra, p.16
[67] Productivity Commission 2013, *Mineral and Energy Resource Exploration*, Inquiry Report No. 65, Canberra, p.92
[68] Productivity Commission 2013, *Mineral and Energy Resource Exploration*, Inquiry Report No. 65, Canberra, recommendation 4.1.

From a process perspective, the committee notes the substantive work undertaken by the department on the Decision Regulatory Impact Statement on this matter.

Recommendation 2

The committee recommends that the government's Queensland Globe and Mines Globe initiative allow any interested user to know where exploration and resource authorities have been applied for, and the option to allow interested parties to be automatically notified if exploration licences are allocated or applied for in a particular area, as per the Productivity Commission's recommendation.

5. Land Access

Restricted Land

The Explanatory Notes identify that currently there is an inconsistent application of restricted land provisions and different land access rules across resource types in the current resource Acts, as outlined below.

Mineral Resources Act 1989

The current regime for resource activities under the *Mineral Resources Act 1989* applies restricted land provisions of either 100 metres of particular permanent buildings or 50 metres from other infrastructure regardless of whether they are within the boundary of the resource authority. Authorised activities can only be undertaken within the restricted land with written consent from the landowner.

> ***Schedule 2 Dictionary***
>
> ***restricted land*** *means restricted land (category A) or (category B).*
>
> ***restricted land (category A)*** *means land within 100m laterally of a permanent building used—*
>
> *(a) mainly as accommodation or for business purposes; or*
>
> *(b) for community, sporting or recreational purposes or as a place of worship.*
>
> ***restricted land (category B)*** *means land within 50m laterally of any of the following features—*
>
> *(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.*

Geothermal Energy Act 2010

The *Geothermal Energy Act 2010* applies distance restrictions of 300 metres of particular permanent buildings or 50 metres of other infrastructure, regardless of whether they are within the boundary of the resource authority. Authorised activities can only be undertaken within the restricted land with written consent from the landowner.

> ***358 Restrictions on carrying out authorised activities on particular land***
>
> *(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 or 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.

Petroleum and Gas

The current regime for petroleum exploration and production tenements includes no concept of restricted land, and simply provides for a 600 metres radius around occupied residences or schools within which activities that would otherwise be preliminary activities become advanced activities and therefore can only be conducted with a Conduct and Compensation Agreement (CCA) or a Land Court determination after complying with the statutory negotiation process. Neighbouring properties not within the permit boundary have no current rights outside protection provided by the environmental authority.

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.

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;

(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.

500 Conduct and compensation agreement requirement

*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.*

New 'Common Provisions' Framework

The Bill introduces a single approach to restricted land across all resource activities. This framework is outlined in Chapter 3, Part 4, clauses 66-72 of the Bill.

A new definition for restricted land is included at clause 68 which narrows the relevant structures to residences, places of worship, buildings for a business purpose (including schools), intensive animal husbandry (such as feedlots), and cemeteries or burial places.

68 What is restricted land

*(1) **Restricted land**, for a resource authority—*

(a) means land within a prescribed distance of any of the following—

(i) a permanent building used, at the date the resource authority was granted, for any of the following purposes—

(A) a residence;

(B) a place of worship;

(C) a childcare centre, hospital or library;

(ii) an area used, at the date the resource authority was granted, for any of the following purposes—

(A) a school;

(B) a cemetery or burial place;

(C) aquaculture, intensive animal feedlotting, pig keeping or poultry farming within the meaning of the Environmental Protection Regulation 2008, schedule 2, part 1;

(iii) a building used, at the date the resource authority was granted, for a business or other purpose if it is reasonably considered that—

(A) the building can not be easily relocated; and

(B) the building can not co-exist with authorised activities carried out under resource authorities;

(iv) another building or area prescribed by regulation; and

(b) does not include land within a prescribed distance of a building or area prescribed by regulation.

(2) To remove any doubt, it is declared that, for subsection (1), the date a resource authority was granted means the date the resource authority was originally granted, and not the date, if any, on which the resource authority was renewed.

(3) In this section—

***place of worship** means a place used for the public religious activities of a religious association, including, for example, the charitable, educational and social activities of the association.*

***residence** means a primary dwelling.*

The new definition differs from existing restricted land provisions in that many of the water-related structures (such as dams, artificial water storage and connection structures) and other on-farm areas will no longer be subject to restrictions. The Explanatory Notes advise that impacts on any of these other matters will be dealt with through conduct and compensation and/or access agreements or through conditions to the environmental authority.[69]

The changes ensure that structures on neighbouring properties are protected, as consent will be required from any landholder whose specified structure is within the 'prescribed distance' of the proposed activities. This consent is proposed to be required irrespective of whether the landholder's property is within the permit boundary.[70]

Prescribed distance is defined in the Bill at clause 67 as follows:

67 Definitions for Part 4

***prescribed distance** means a distance prescribed by regulation.*

The department gave an indication as to what distance will apply:

Firstly, it aligns with the overall approach taken by the Bill to make better use of the subordinate legislation in the context of the existing resources acts, which are quite detailed

[69] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 21.

[70] DNRM, 2014, '*Towards a standard consent framework for restricted land across all resources types: Consultation regulatory impact statement*', p. 10-1.

and lengthy and, secondly, allowing the distance to be prescribed by a regulation allows flexibility in prescribing different distances for different resource activities. We are now talking about five acts into one and also different resource authorities, building structures. So there could be multiple scenarios where different distances will be required. So this is one of those scenarios where further lengthy details would be appropriate to be prescribed in subordinate legislation.

….

The rationale behind the proposed 200 metres was based on giving landholders some sort of certainty on the distance on which they get to have a veto over whether resource activities can be conducted in close proximity to certain buildings and other arEas. It is reflected on the fact that the current distance for the mineral and coal sector is 100 metres. There is no restricted land distance, obviously, for the petroleum and gas sector at this time. So it was a view that 200 metres versus 100 metres would be more appropriate now that we are taking into account petroleum and gas and other resource types. Also, there are other frameworks that control the proximity of activities to various buildings such as environmental conditions and also safety considerations as well from potential hazards that may be posed.[71]

There were three key concerns raised in relation to the restricted land framework. Firstly, stakeholders were concerned for the removal of certain infrastructure and structures from the restricted land protections.

Shine Lawyers and Donnie Harris Law argue in their submissions that the structures and areas removed should be returned to the restricted land provisions:

Many of the areas which have been removed are essential to the operation of a farming business and to "do away" with them will place farmers and others at a significant disadvantage in what is already an imbalanced negotiation. It will no longer be a question of whether or not the landholder will be able to continue his operation or retain the piece of infrastructure, but rather, a question of compulsory acquisition and/or compensation…We therefore urge re-consideration of the drafting to incorporate the aforementioned areas as restricted land areas. To not do so would result in a huge abrogation of the rights of landholders and would adversely affect them in all negotiations with resource authority holders.[72]

… watering points, particularly for graziers, are the backbone of many primary producing enterprises – any loss or damage to those watering points can have a substantial and disastrous impact on their livelihoods… The Bill would firstly remove this key infrastructure as Restricted Land and then remove the landholder's ability to veto access in certain circumstances. Clearly this benefits the resource industry but does not preserve individual rights that have been in existence for many years.[73]

The department advised:

The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors.

[71] Barr, D. 2014, *Draft public briefing transcript*, 27 August, p. 11.
[72] Shine Lawyers, *Submission no.15*, pp. 10-1.
[73] Donnie Harris Law, *Submission no.19*, pp. 1-2.

The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.[74]

Secondly, stakeholders were concerned for the appropriateness of the 200 metres prescribed distance and the use of regulation to define what prescribed distances will apply.

Shine Lawyers in their submission argue that the reduced area of protection applied to restricted areas represents a lowering of standards when compared to existing legislative practices:

We welcome the introduction of the principal of restricted land to the petroleum and gas industry. However, we are extremely concerned with several areas of the proposed framework and question how the proposal will actually benefit landholders affected by the petroleum and gas industry. We again refer to the government's commitment to not prejudice or reduce the rights of landholders in the course of carrying out the reforms. However, the proposed amendments, when compared to the existing regime under the Mineral Resources Act 1989, do not concur with this commitment.[75]

AgForce Queensland, the BSA and others supported a 600 metre restricted land area of exclusion zone as a minimum standard, whilst Property Rights Australia further argued for the retention of a 50 metre protection area around other infrastructure:

Implement a consistent restricted land framework across all resource sectors. While AgForce certainly supports processes which simplify complex legislation across different but similar frameworks the concern is that at no point should this reduce landholders rights in the area of resource activity on their property. If there is to be commonality it should be based on whatever is the highest level of landholder rights available in whichever current Acts.[76]

My understanding is that at the moment there are a number of different rules in relation to that across the different acts. If we look back to the beginning of when the resource sector started in Queensland in the last five to seven years, one of the things that have got messy is where different companies have come too close to homesteads for producers' comfort.

Six hundred would be the minimum. If you spoke to producers they would obviously like more, but 600 would definitely be the minimum.[77]

My point is that anything that can secure at least a 600 metre boundary across-the-board would provide producers with a lot of comfort. There has been some confusion. We are not sure that the current Bill has made that clear enough. Critical farming infrastructure stands to be greatly affected by mining activities and that people's homes are included in the buildings mentioned in Clause 67 this is definitely not an issue to be left in limbo. BSA recommend that CSG wells should not be any lesser than a distance 600 metres or the mandatory distance prescribed by the EPA for light, noise and dust impacts from a landholder's private dwelling. Furthermore, this buffer distance should apply equally to stock yards, feedlots, piggeries and poultry facilities and similar infrastructure regardless of their size.[78]

The restricted land distance should be 600 metres and landowner's bores must be afforded a greater protection of 600 metres because of the high probability of damage from activities such as seismic exploration, blasting and fracking... A restrictive land distance of 50 metres should apply from infrastructure such as dams, tanks, troughs and associated water

[74] DNRM 2014, *Correspondence*, 18 August, p.18.
[75] Shine Lawyers, *Submission no.15*, p.9.
[76] Agforce Queensland, *Submission no.218*, p.1.
[77] Dillon, S. 2014., *Draft public hearing transcript*, Brisbane, 27 August 2014, p.6.
[78] Basin Sustainability Alliance, *Submission no.173*, p.4.

pipelines, irrigation dams and ring tanks, head ditches and tail water drains, also stock yards and farm sheds. [79]

The department's response in relation to the restricted land provisions was follows:

> *While the actual restricted land distance is proposed to be prescribed by regulation, consultation on a proposed distance of 200 metres from permanent buildings for exploration and production authorities was undertaken. If this was adopted, it would mean that a CCA for preliminary activities would no longer be required between 600 and 200 metres. Within 200 metres, owners and occupiers would have the right to give consent and any conditions, and in addition a CCA would be required for any advanced activities.*
>
> *Additionally, the resources Acts work in tandem with the Environmental Protection Act 1994, to ensure the appropriate environmental safeguards are in place to protect the environmental features of the land, including the potential impacts from dust and noise, etc.* [80]

A further concern raised in submissions related to the opportunities and processes for resolving disputes about restricted land. Clause 72 of the Bill allows an owner, occupier or holder of a resource authority to apply to the land court to make a declaration about whether land is restricted land. As noted in the submission from the Australian Petroleum Production and Exploration Association (APPEA), *'the practicality of proponents utilising this process, which is potentially costly and is not subject to any timeframes, is questionable'*.[81] The process also has the potential to delay a proponent from commencing activities and for this reason it is the preference of both landholders and resource companies that as much clarity is provided in legislative framework as possible to avoid the need for ongoing dispute and Land Court determinations.

Committee Comment

The availability and access to land is a further policy area available to government to influence the level and nature of exploration. The committee notes that, in most Australian jurisdictions, the legislative framework requires land holders to allow explorers to access their land, subject to negotiated terms and conditions. The regulatory framework in Western Australia appears to the exception, where consent of the land holder is required to mineral exploration on land used for cropping or pasture. This does not come at the expense of exploration activity in Western Australia, as it possess (as does Queensland) richness in mineral endowments. [82]

The committee acknowledges the concerns from land holders and other parties that 'restricted land' no longer applies to infrastructure. However, the committee accepts the intent of the changes to the restricted land framework, which legitimately seeks to achieve a consistent restricted land framework across all resource sectors.

The committee further notes that clause 72 of the Bill will allow an owner, occupier or holder of a resource authority to apply to the Land Court to make a declaration about whether land is restricted land.

The committee supports the view that land access decisions be informed by sound evidence, particularly as they relate to prescribed distances. From the evidence received, the committee is uncertain as to whether there is a shared understanding of the proposed change and evidence for same, and suggests that further information and clarification be provided to stakeholders.

[79] Property Rights Australia, *Submission no.202*, p. 4-5.
[80] DNRM 2014, *Correspondence*, 18 August, p.22.
[81] APPEA, *Submission no.1*, p. 12.
[82] Productivity Commission 2013, *Mineral and Energy Resource Exploration,* Inquiry Report No. 65, Canberra, p. 43-4, 133.

From a process perspective, the committee notes the substantive work undertaken by the department on the Decision Regulatory Impact Statement on this matter.

Access to private land outside of authorised area

The Bill introduces a single approach for entry and access to private land across all resource activities. This framework is outlined in Chapter 3, Part 2, clauses 37-55 of the Bill.

The provisions in the Bill migrate the existing rights and obligations in the *Petroleum and Gas (Production and Safety) Act 2004*, *Greenhouse Gas Storage Act 2009* and *Geothermal Energy Act 2010* across from these three existing Acts into the new Common Provisions Act. These rights and obligations are therefore expanded to include the *Petroleum Act 1923* and exploration permits under the *Mineral Resources Act 1989,* where they are currently not mirrored.

There was generally broad support for the harmonisation of these provisions except with respect to the migration of the provision to make an oral agreement in respect of access agreements at clause 47 of the Bill:

> ***47 Limited access to private land outside authorised area (private land that is off-tenure)***
>
> *(1) A resource authority holder may exercise an access right over access land if—*
>
> *(a) 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 access land—Each owner and occupier of the land;*
>
> *(ii) if exercising the rights is unlikely to have a permanent impact on access land—Each occupier of the land; or*
>
> *(b) the exercise of the rights is needed to preserve life or property or because of an emergency that exists or may exist.*

The basis for this concern was that agreements of this nature were binding on both current and future owners and occupiers and may not provide the necessary level of clarity and transparency, and may be difficult for the Land Court to enforce or consider in the event of a dispute.

This view was shared by APPEA, Property Rights Australia and various other landholders who appeared as witnesses at the public hearings:

> *This is a positive step for industry, although we note the potential issues that may arise as a result of the fact that oral access agreements bind successors and assigns under clause 79 of the Bill.*[83]
>
> *We also submit that mere conversation between resource companies and landholders as a basis of doing business is fraught with danger. Let us assure you, as people who live in the resource areas, that the average landholder does not recognise resource representatives as being very good with the truth, according to conversations with us. In our case, 'morality' and 'ethics' would appear to be words that our resource neighbours would have to look up in the dictionary. An oral agreement would eventually lead to problems of a disastrous nature.*[84]
>
> *Any suggestion that verbal agreements be binding on any landholder for all but the most minor of operations—yes, you can go through that gate—much less on future holders of land is clearly laughable. This is particularly the case in section 47(a)(i) where there is likely to be a permanent impact on the land. Do we again assume that the resource holder's*

[83] APPEA, *Submission no.1*, p.5.
[84] Dahlheimer, W., 2014, *Draft Hearing Transcript*, Toowoomba, 19 August, p.25.

account of events is the correct version? All references to oral agreements should be expunged from the legislation. The experience is that almost all oral agreements with resources companies are reneged upon. This type of agreement for an access agreement should not even be contemplated.[85]

The department advised:

This provision has been migrated across from the existing resources Acts. The ability for the agreement to be made orally or in writing ensures that there is sufficient flexibility in the framework to accommodate different access scenarios. The framework allows the parties to decide how to record their agreement based on the nature and duration of the activities required for access.

To amend the requirements to mandate all agreements be in writing is likely to introduce unnecessary regulatory burden for the parties.[86]

The committee notes there is an inconsistency in use of the terms 'successors in title' and 'successors' within the Bill, and that the department is considering amendments to redress this issue.[87]

Committee Comment

The committee notes that the provision to make an oral agreement in respect of access agreements is being migrated from existing resources Acts.

The committee notes the evidence submitted to the inquiry that oral agreements can be conducive to dispute and uncertainty, particularly when access agreements are binding on successors and in the event of change of ownership, in the same way as a written agreement, but accepts the intent to provide flexibility in the framework where relationships exist.

The committee trusts that stakeholders will seek own advice as to risks associated, when entering any form of agreement.

Entry to public land

The Bill introduces a single approach for entry and access to public land across all resource activities. This framework is outlined in Chapter 3, Part 3, clauses 58-60 of the Bill.

The *Mineral Resources Act 1989* provides that a person must not enter public land in an exploration tenement area to carry out any authorised activity unless each *owner and occupier* is given an entry notice at least 10 business days before entry. Under all other resource Acts, the resource authority holder is required to give an entry notice to the *public land authority* at least 30 business days before first entry, and the public land authority can condition the entry and subsequent entries.

The Explanatory Notes explain that the existing requirement to give notice to owners and occupiers of public land created administrative difficulties for resource companies:

The Bill provides a harmonised framework for entry to public land for resource authority holders by removing any legislative inconsistencies between the Resource Acts and transfers the common public land access provisions into the common provisions Act.[88]

Except for prospecting permits, mining claims and mining leases under the *Mineral Resources Act 1989*, the new provisions in the Bill remove the requirement to notify and gain consent of an occupier of lands before entry. Instead only the relevant public land authority is required to be

[85] Rae, J., 2014, *Draft Hearing Transcript*, Mackay, 20 August, p.23.
[86] DNRM 2014, *Correspondence*, 18 August, p.14.
[87] DNRM 2014, *Correspondence*, 25 August, p.21.
[88] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 15.

notified and provide consent. Provisions in the Bill also allow the public land authority to give a waiver of entry notice and or state conditions associated with entry.

> ***57 What is a periodic entry notice***
>
> *(1) A periodic entry notice is the first notice about an entry, or series of entries, to public land to carry out an authorised activity for a resource authority.*
>
> *(2) A periodic entry notice must—*
>
> *(a) state the period (the entry period) for which the resource authority holder, or any of the holder's employees or agents, may enter the land to carry out the authorised activity; and*
>
> *(b) be given to the public land authority no less than the prescribed period before the start of the entry period; and*
>
> *(c) otherwise comply with the prescribed requirements for the notice*
>
> ***58 Entry to public land to carry out authorised activity is conditional***
>
> *(1) A person must not enter public land to carry out an authorised activity for a resource authority unless—*
>
> *(a) the activity is an activity that may be carried out by a member of the public without requiring specific approval of the public land authority for the land; or*
>
> *Example— travelling on a public road in the area of the petroleum authority*
>
> *(b) the public land authority for the land has given a waiver of entry notice for the entry; or*
>
> *(c) the entry is made in compliance with a periodic entry notice given by the resource authority holder to the public land authority for the land under section 57; or*
>
> *(d) the entry is needed to preserve life or property or because of an emergency that exists, or may exist.*
>
> *Maximum penalty—100 penalty units.*
>
> *(2) A person may comply with subsection (1)(b) or (c) despite merely being an applicant for the resource authority at the time of giving the notice.*
>
> ***60 Right to give waiver of entry notice***
>
> *(1) A public land authority for land may give a waiver of entry notice for an entry made to the land to carry out an authorised activity for a resource authority.*

The committee noted concern that there was no longer any legislative requirement to notify occupiers of public land prior to entry, or for the public land authority to consult with occupier when considering conditions and or waivers.

> *QMDC does not support the proposed changes to only notify owners of public land. QMDC believes the onus is on the public land owner to keep accurate records of occupiers and enable mining proponents to notify those occupiers through these records. Reasonable efforts must be made to contact and consult with occupier whose interests although facilitated by the owner allowing them occupancy are likely to be impacted on very differently than the occupier.*[89]

The department responded:

[89] Queensland Murray-Darling Committee Inc., *Submission no.12*, p.13.

The requirement for resource authority holders to notify the public land authority (PLA), but not any occupiers of public land, is consistent with existing arrangements under all resource Acts except the Mineral Resources Act 1989.

As the PLA can place reasonable conditions on the entry to public land, it is appropriate that the PLA considers the requirements of occupiers in applying any conditions. They can liaise with relevant occupiers as required in developing conditions. To ensure the PLA can continue to undertake this role, the Bill clarifies that the PLA can apply conditions to address the requirements of occupiers.[90]

Committee Comment

The committee recognises the intent of the reforms, which address the difficulties faced by mining companies to identify the occupier of public land. However, the committee noted concern that occupiers of land will no longer be notified, and that there is not any clear requirement for the public land authority to ensure that any notice they receive is subsequently forwarded to the occupiers or that occupiers are consulted by the land authority before they agree to entry or a waiver of entry notice.

The committee trusts that other lessor/lessee contractual arrangements exist to require that occupiers are notified of applications made over the relevant land, and the rights of the occupier to be consulted by the public land authority when executing a right to impose conditions or agree to the waiver of an entry notice.

Land access code

The current Land Access Code was developed by the land access working group (formed in 2008, comprising representatives from AgForce, Queensland Farmers' Federation, Australian Petroleum Production and Exploration Association and Queensland Resources Council). The code commenced in August 2010. The Land Access Code has statutory basis through section 24A of the *Petroleum and Gas (Production and Safety) Act 2004:*

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.

At the point of its establishment, the intent was to provide a single and consistent set of conditions for resource companies to comply. The code replaced a number of separate codes applying to different sectors in place before this time.

There is no evidence that the Land Access Code has been subject to any public review since its commencement, despite the overall land access framework having been reviewed subsequently by the land access review committee in 2011-12.

Committee Comment

The committee is advised that the Land Access Code has not been reviewed since its initial commencement in 2010. If so, it is timely to review the code, in light of its significance to the land access framework.

[90] DNRM 2014, *Correspondence*, 18 August, p.9.

Recommendation 3

The committee recommends that a review of the Land Access Code be completed by the Land Access Implementation Committee, in consultation with key resource, agriculture and landholder sectors, within 6-12 months of the commencement of the Common Provisions Act.

Agreements, notices and waivers

Opt-out Agreements

This Bill introduces provisions allowing for an 'opt-out agreement', providing landholders the option to voluntarily opt out of the requirements for entry notices and CCAs. The opt-out agreement is voluntary and compliance with the Land Access Code remains. A cooling off period of ten days applies.

> ***40 Exemptions from obligations under div 2***
>
> *(2) An obligation under this division to give an entry notice about an entry to private land to carry out an authorised activity for a resource authority also does not apply if the resource authority holder has 1 of the following with Each owner and occupier of the land—*
>
> *(a) a waiver of entry notice for the entry that is in effect;*
>
> *(b) a conduct and compensation agreement for the land and—*
>
> *(i) the agreement provides for alternative obligations for the entry; and*
>
> *(ii) the holder complies with the alternative obligations for the entry;*
>
> *(c) an opt-out agreement.*
>
> ***43 Carrying out advanced activities on private land requires agreement***
>
> *(1) A person must not enter private land to carry out an advanced activity for a resource authority unless—*
>
> *(a) Each owner and occupier of the land is a party to a conduct and compensation agreement about the advanced activity and its effects; or*
>
> *(b) Each owner and occupier of the land is a party to a deferral agreement; or*
>
> *(c) Each owner and occupier of the land has elected to opt out from entering into a conduct and compensation agreement or deferral agreement under section 45; or*
>
> ***45 Right to elect to opt out***
>
> *(1) An owner or occupier of land may elect to opt out of entering into a conduct and compensation agreement or a deferral agreement with a resource authority holder.*
>
> *(2) The election to opt out is an opt-out agreement and is invalid if it does not comply with the prescribed requirements for the agreement.*
>
> *(3) Despite any term of the opt-out agreement, either party to the agreement may, by giving written notice to the other parties to the agreement, unilaterally terminate the agreement within 10 business days of a signed copy of the agreement being given to the owner or occupier of land.*

The introduction of the opt-out agreement is consistent with the recommendation of the Land Access Committee's six–point action plan and received strong support from industry.

> *It is noted that with regards to Conduct and Compensation Agreements, there is the provision for an Opt-out agreement' included in the Bill. This is considered crucial to*

recognising the excellent working relationships that many mineral exploration companies maintain with land holders.[91]

As recommended by the Land Access Implementation Committee, which we have heard about earlier, the opportunity to partake in an opt-out agreement between the two willing parties is vital. Many explorers have longstanding agreements with well-informed landholders. [Association of Mining and Exporation Companies]AMEC encourages the committee to support this policy and ensure that productive business relationships remain without the need for government intervention in those cases[92]*.*

However, being a new provision there were concerns raised regarding the possible risks these forms of agreements may pose for landholders if there are insufficient safeguards in place to ensure that landowners are informed and willing parties to the agreement.

Opt-out agreements offer very few protections and pave the way for misuse and problems. They should not be allowed or at least there should be more safeguards put in place to protect people.[93]

Cotton Australia is concerned that s. 45 allows landholders to opt-out of a conduct and compensation agreement (CCA) with no limits as to the circumstances under which an opt-out agreement can be made. This unlimited ability for opt-out encourages poor conduct on the part of resource authority holders… An amendment should be made to allow a purchaser of land where an opt-out agreement is in place to have the right to enter into a CCA.[94]

Opt out option is completely inappropriate…We have successfully negotiated a land entry via a waiver for preliminary activities to address our operational concerns. However, we would never under any circumstances use this for advanced activities.[95]

AgForce Queensland commented at the public hearing that the opt-out agreement provisions are not consistent with the original intent of the Land Access Implementation Committee's recommendations. AgForce Queensland argued that opt-out agreements must be subject to a number of protections/conditions and were only appropriate to certain lower risk/scale circumstances:

There is one key element that we are very mindful of and very concerned about, and that is the opt-out clauses. While we understand that in many cases there are legitimate grounds for that where there is no need to go through a rigmarole if none is required, we are concerned that those opt-out clauses could be somewhat abused by the resource companies. We want to make sure that there are some very clear parameters about when and how opt-out clauses can be used, and we want to make sure that there is some sort of a checkpoint at which it is made clear to landholders what they are doing

…

Looking back to when we had this discussion in the land access committee what came to mind was a simple sheet that producers had to sign before they could sign an opt-out agreement. I know it sounds like more paperwork, but it is a fairly simplistic thing—'So you understand that what they are doing is opting out of a CCA and a CCA means this? Are you

[91] AMEC, *Submission no.13*, pp. 1-2.
[92] Hogan, B., 2014, *Draftpublic hearing transcript*, Brisbane, 6 August, p.14.
[93] Environmental Defenders Office Queensland, *Submission no.5*, p. 3.
[94] Cotton Australia, *Submission no. 6*, p.2.
[95] Jindal Steel and Power (Australia) P/L, *Submission no.59*, p. 1.

sure you understand what you are doing?' This is only to be used in simple cases where there is no need for complex arrangements.[96]

Shine Lawyers agrees, submitting:

As we have previously submitted, the Land Access Implementation Committee clearly intended that "opt-out" agreements would only apply in very limited circumstances. In our view, an "opt-out" agreement offers very little benefit to a Landholder and provides little protection once signed. We also note that the Deferral Agreement framework is already in place and we therefore question the inclusion of a further framework which provides yet another avenue for a resource authority holder to avoid entering into CCA's with Landholders. Further, an "opt-out" agreement is unlikely to be any simpler than a CCA or Deferral Agreement could be.[97]

Consistent with these concerns, the Land Access Implementation Committee recommended (recommendation 4.2) that criteria should be met for parties to exercise the option to 'opt-out' of the CCA requirement under the framework, including that the resource authority holder must:

- provide the landholder with an opt-out factsheet and a copy of the Land Access Code
- ensure the landholder is aware that they have the option to initiate an opt-out agreement of legal release
- inform the landholder that they have a right to negotiate a CCA and they are not obligated to sign an opt-out agreement or legal release
- must still comply with the Land Access Code as a minimum. [98]

The Land Access Implementation Committee also recommended that a form of acknowledgment or warning statement be part of the process and that there be a cooling off period.

Committee Comment

Issues can arise in areas requiring 'co-existence' due to competing land use requirements, particularly in high value agricultural areas. In general, these issues are resolved through negotiation of a conduct and compensation agreement.

The evidence received by the committee with respect opt-out agreements indicates that there remains concern to ensure that informed decisions are made before agreeing to 'opt-out- of the requirement for a conduct and compensation agreement.

In completing its inquiry, the committee accepts that, although this is a business-to-business transaction, rural land holders can be at some disadvantage including due to limited experience in undertaking such negotiations compared to resource companies.

The committee is convinced of the need to ensure that the process used guarantees that land holders have access to information both with respect to conduct and compensation agreements and opt-out agreements, including that compensation is available for reasonable costs incurred in negotiating an agreement. This may involve the inclusion of the 'opt-out' option being included within the template of the conduct and compensation agreement or in a standardised opt-out agreement with prescribed requirements.

[96] Dillon, S., 2014, *Draft public hearing transcript*, 27 August, p.4,7.
[97] Shine Lawyers, *Submission no.15*, p.5.
[98] Queensland Government, 2013, Land Access Implementation Committee Report, p. 14.

Agreements to be recorded on land title by the registrar

Consistent with the Land Access Implementation Committee's recommendations, the Bill also introduces new provisions at clause 90 which require CCAs and opt-out agreements to be registered on the property titles.

> ***90 Particular agreements to be recorded on titles***
>
> *(1) A resource authority holder that is a party to either of the following agreements must, within 28 days after entering into the agreement, give the registrar notice of the agreement in the appropriate form—*
>
> *(a) a conduct and compensation agreement;*
>
> *(b) an opt-out agreement.*
>
> *(2) If given a notice under subsection (1), the registrar must record in the relevant register the existence of the agreement.*
>
> *(3) If the agreement ends, the resource authority holder that is a party to the agreement must, within 28 days after the agreement ends, give the registrar notice of that matter in the appropriate form.*
>
> *(4) If given a notice under subsection (3), the registrar must remove the particulars of the agreement from the relevant register.*
>
> *(5) A resource authority holder complying with subsection (1) or (3) is liable for the costs of recording or removing the agreement from the relevant register.*

However the committee considered the enduring effect of other particular agreements, notices and waivers as outlined at clauses 78-79 of the Bill.

> ***78 Entry notice and waivers not affected by change in ownership or occupancy***
>
> *(1) If, after the giving of an entry notice under section 39, the ownership or occupancy of the affected land changes, the resource authority holder for which the entry notice was given is taken to have given that notice to each new owner or occupier of the land.*
>
> *(2) If, after the giving of a waiver of entry notice, the ownership or occupancy of the affected land changes, Each new owner or occupier of the land is taken to have given that waiver of entry notice.*
>
> *(3) However, subsections (1) and (2) cease to apply for an entry notice or waiver of entry notice if the resource authority holder becomes aware of a new owner or occupier for the affected land and the holder does not give the new owner or occupier a copy of the notice or waiver within 15 business days.*
>
> ***79 Access agreement binds successors and assigns***
>
> *An access agreement binds the parties to it and each of their personal representatives, successors in title and assigns.*

The committee was concerned, for consistent and clarity, and in light of the binding nature of these further agreements, that these other such agreements should also be acknowledged on relevant land titles.

Committee Comment

The committee notes that clauses 78 and 79 provide that entry notices, waivers and access agreements are not affected by change in ownership or occupancy and are binding on personal representatives, successors in title and assigns to the same extent as conduct and compensation agreements.

Whilst the latter formal agreements are required to be noted on the land title by the relevant registrar, there is not the same requirement for entry notices, waivers and access agreements to be noted on the land title. The committee suggests that for transparency and consistency entry notices, waivers and access agreements should also be registered.

The committee supports the inclusion of an opt-out agreement in clause 90(3) to be recorded on the land title for the purpose of information. The committee notes the subsequent advice provided by the department that it is considering whether opt-out agreements should be included within clause 93 as binding on successors and assigns.[99]

The committee accepts and adopts the view expressed by submitters that the Bill should make clear the requirements with respect to removal of particulars on the title when there is a dispute regarding the end of an agreement, e.g. for non-compliance or breach.

[99] DNRM 2014, *Correspondence*, 18 August, p.15.

6. Overlapping tenure for coal and coal seam gas

In Queensland, the rights to explore for coal and CSG are separately available. The Explanatory Notes state:

> *The overlapping tenure framework provides a process for managing situations where a resource authority for one resource type (e.g. mining lease) overlaps a resource authority for another resource type (e.g. petroleum lease.) The current framework for managing overlapping tenure for coal and petroleum (CSG) is complex and has uncertain requirements for the grant of a production authority including open-ended timeframes. It also gives the first party to be granted their resource authority a 'first mover' advantage, enabling that party to 'lock out' the second party, by restricting the resource activities the second party can undertake in the overlapping area. Where this may occur, the resources are unlikely to be developed to their full potential, resulting in an economic loss to the State.*[100]

The Explanatory Notes state:

> *The Bill establishes a new framework for managing Queensland's overlapping coal and petroleum (CSG) tenures which is based on a joint coal and CSG industry proposal set out in the paper 'Maximising Utilisation of Queensland's Coal and Coal Seam Gas Resources – A New Approach to Overlapping Tenure in Queensland (the White Paper). The concepts and principles outlined I the White Paper and the various technical working group reports provide the basis for the new overlapping tenure framework.*[101]

Key provisions for the new framework are set out in Chapter 4 of the Bill, and Chapter 7 with respect to transitional provisions.

The submissions received by the committee in the inquiry from resources companies referred consistently to a cooperative approach between industry and government with respect to the progression of the White Paper.

> *The overlapping tenure provisions in this Bill have been extremely difficult to implement from the industry White Paper process. APPEA would like to congratulate DNRM staff for their strong consultation with industry on these provisions in particular as they have been an extremely technical challenge to implement.*[102]

> *As AMEC was consulted in the policy formation for this Bill, much of it is known and accepted by members.*[103]

However, much of the content of the submissions went on to highlight discrepancies between the approaches in the White Paper and the Bill, or lack of information as part of the phased approach being adopted.

> *Definitive positions/comments cannot be made on how the Bill provisions adopt the principles of the White Paper on compensation for lost CSG production, replacement of major PL major gas infrastructure, replacement of PL minor gas infrastructure, severing of PL connecting infrastructure and ATP major gas infrastructure, as the compensation or costs of replacement are to be assessed based on principles to be set out in the regulations. It remains to be seen to what extent the regulations will reflect the principles in the White Paper. The hierarchy of compensation methods has not been reflected in the Bill.*[104]

[100] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p.7.
[101] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p.21.
[102] APPEA, *Submission no.1*, p.14.
[103] AMEC, *Submission no.13*, p.1.
[104] APPEA, *Submission no.1* p.14.

The time allowed for consideration of the Bill has not been sufficient for QRC and its members to fully consider, and reach a consensus view on, the full suite of transitional arrangements.

However, industry's initial consideration of these arrangements (as drafted in the Bill) raises significant issues, which is particularly of concern given the importance of these provisions and the ramifications for existing projects if the provisions are not given the attention and detailed consideration they warrant.[105]

The department's response to submissions indicate an agreement to work to resolve the matters, including:

The department agrees with the comments [on overlapping tenure - exploration activities over a production tenement for the other resource,] made by APPEA in its submission and is working to resolve the matter.[106]

AND

The department does not support the removal of the transitional provisions from the Bill, but remains committed to working with industry to ensure that these provisions correctly reflect the industry agreed policy position prior to the commencement of the new overlapping tenure framework.[107]

AND

The department appreciates that the matter of transitional arrangements for the Surat Basin geographical area is a contentious issue for the resource industry. This is evident in the fact that the parties failed to reach an agreed position on the matter in the White Paper and turned to government to resolve this matter. In developing a policy position on the issues government has attempted to seek a 'middle-ground' position and remain consistent with the principles of the framework.[108]

Committee Comment

The committee agrees that the potential for competition, or conflict, between coal and coal seam gas operations requires attention as part of the Modernising Queensland's Resources Acts Program, to clarify the rights and responsibilities of both parties.

The committee notes the government's intent to resolve the gaps and outstanding structural matters and that the new regime will not commence until further provisions are in place and regulations settled. That being the case, the committee supports continued efforts towards the resolution of outstanding issues and a clearer legislative framework for overlapping tenure.

[105] Queensland Resources Council, *Submission no.3*, p. 7-8.
[106] DNRM 2014, *Correspondence*, 18 August, p.6.
[107] DNRM 2014, *Correspondence*, 18 August, p.18.
[108] DNRM 2014, *Correspondence*, 18 August, p.11

7. Dispute Resolution Processes

All five current resource Acts contain provisions relating to the conduct of access and compensation negotiations, including provisions allowing for dispute resolution, facilitated by a third party, prior to referral to the Land Court. These provisions have been carried across to the Bill. Additionally the Bill includes a requirement that the Land Court when receiving an objection, must consider what steps have been taken by the parties to negotiate the agreement, including whether an ADR has occurred.

> ***86 Parties may seek conference or 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 written 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 the other party to agree to an **alternative dispute resolution process** (an **ADR**) to negotiate a conduct and compensation agreement.*
>
> *(3) The ADR may be a process of any type, including, for example, arbitration, conciliation, mediation or negotiation.*
>
> *(4) If the election notice calls for an ADR, it must—*
>
> > *(a) identify the type of 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); and*
> >
> > *(c) be given to the other party.*

Departmental conferences remain an option in the new Common Provisions framework. Yet, the Land Access Implementation Committee identified that '*departmental conferences are not achieving effective outcomes in terms of resolving disputes, with some stakeholders perceiving a lack of independence and relevant expertise from departmental officers*.'[109] The Land Access Implementation Committee went on to recommend the establishment of an independent ADR panel to facilitate resolutions.

The Productivity Commission has also concluded '*[n]egotiated agreements can be difficult to achieve if the issues are contentious and parties are unwilling to compromise. When agreement cannot be reached, dispute resolution procedures are required. All parties should have access to an affordable facilitation process. The facilitator should be a neutral third party such as a land court or an independent facilitation service.'*[110]

The committee also sought the department's advice on its approach to ADR.

> *Departmental conferences are always an option. Our first goal is to bring the parties together when there is non-agreement, but, certainly, we do not have the skills to facilitate more detailed mediation.*[111]

Under clause 86, a party may call the other party to agree to an ADR process; however, the clause does not require the other party to expressly agree to the ADR process, nor does it clarify what

[109] Queensland Government, 2014, Land Access Committee Implementation Committee Report, p. 12.
[110] Productivity Commission 2013, *Mineral and Energy Resource Exploration*, Inquiry Report No. 65, Canberra, p. 20.
[111] Ditchfield, B. 2014, *Draft public hearing transcript*, Brisbane, 27 August 2014, p.10.

happens should a party not agree to an ADR process. This was raised in submissions to the committee.[112]

> *[Queensland Resources Council] finds the Bill fails to clarify whether parties must agree on an Alternative Dispute Resolution ('ADR') process where negotiations for a Conduct and Compensation Agreement ('CCA') have failed. The wording in section 86(2)(b) of the Bill (like the existing wording in resources legislation) is that a party may call upon the other party to agree to an ADR process. There is no clarification as to what happens if the other party refuses to agree to the ADR process.*[113]
>
> *Section 86(2) leaves the process in a state of uncertainty because it is not clear what happens if the other party does not agree. If the "call" upon the other party is pro forma then it might as a matter of construction follow that a conference can be held under section 87, or ADR can be conducted under section 88. However if (as the word suggest) the other party's agreement is required, then none of the following steps can be taken in the absence of agreement.*[114]

The committee sought advice from the department as to the options available to parties if one party is served with an election notice but does not agree to participate in the nominated ADR process, particularly if the ADR process nominated is arbitration (see the Queensland Court of Appeal case of *Australia Pacific LNG Pty Ltd v Golden & Ors*[115]).

The department advised that:

> *The Bill has migrated the current ADR and conferencing requirements from the existing Resource Acts. The policy intent of the land access framework is to facilitate the relationship between resource authority holders and the owners and occupiers of the land within the resource authority area. The framework establishes processes considered appropriate to enable the parties to mutually agree to the terms and conditions for their conduct and compensation agreement, before escalating to an assisted process and then the Land Court. To ensure the parties have flexibility in the process, the Bill does not over-regulate the process by prescribing every step to be taken by the parties.*
>
> *Where a party has been called upon, but does not agree to partake in the nominated ADR process, they may via return correspondence nominate an alternative form of ADR or call upon a conference to be conducted. The department will only become involved in this process where a conference has been called.*
>
> *The department is aware of the recent Queensland Court of Appeal case Australia Pacific LNG Pty Ltd v Golden & Ors [2013] QCA 366, where an application for an injunction was made against an arbitration to be conducted under section 537A(4) of the Petroleum and Gas (Production and Safety) Act 2004, which has the same provisions as the Bill. As the parties signed a conduct and compensation agreement, after the granting of the injunction, the Court of Appeal was not required to make a determination regarding interpretation and construction of the section.*
>
> *The department is considering the issues and potential options that may be required to clarify the application of the provisions and if a legislative amendment is required, this will be proposed in a future Bill.*[116]

Some state and territory legislation explicitly provides for legal and other expenses incurred by land holders in negotiating an agreement to be compensable.[117]

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[112] Queensland Law Society, *Submission no.2*, pp. 12-3.
[113] Queensland Resources Council, *Submission no.3*, p. 3.
[114] Queensland Law Society, *Submission no.2*, pp. 12-3.
[115] [2013] QCA 2013.
[116] DNRM, Correspondence, 25 August, p.21.

Submitters to the inquiry also raised issue with the costs incurred in the negotiation of land access and use.

> *Many, many landowners are reporting that at least one member of their business unit is having to become a full time resources person with no allowance for their time. This is particularly the case where landowners are dealing with multiple resources and infrastructure companies.*[118]
>
> *With respect to the recovery of legal fees, we are aware that there are resource companies who take the view that the legislation does not require them to pay or reimburse legal fees until a conduct and compensation agreement is entered into by a landholder. This means that a landholder can incur substantial legal fees but be left in the position that they will not be paid by the resource company because the resource company has pulled out of the negotiations on the basis it has decided not to proceed with the project at this time. We are currently experiencing these arguments and unfortunately the legislation is unclear on when the obligation to pay legal fees arises – it should be from the time the resource company gives notice of its intent to negotiate a conduct and/or compensation agreement and payable regardless of when (and if) the agreement is executed.*[119]

Committee Comment

The committee supports the criteria set out by the Land Access Committee with respect to the persons involved in alternative dispute resolution, namely that they possess the necessary skills and experience to facilitate fair resolutions, and are available in appropriate localities and capable of responding to matters within the statutory timeframes.

The committee notes the department has a role with respect to information and education, as part of administrating the framework.

The committee remains concerned with respect to the issues raised by both resources and agriculture sectors with respect to the establishment of reasonable professional costs during negotiation, and particularly in circumstances where negotiations end without an agreement. Although this is a business-to-business transaction, the committee accepts the evidence provided that land holders can be at some disadvantage, due to relative experience in undertaking such negotiations and an imbalance of power as, in most cases, land holders are required to negotiate and allow access to resource exploration on their land.

While the evidence suggests that some resource companies adopt the practice of reimbursement in Queensland, the committee considers that reasonable costs incurred by land holders in negotiating agreements should be compensable and that land holders should be made aware that such compensation is available, though potentially capped in light of the range of professional fees that can be charged.

Recommendation 4

The committee recommends that the Bill be amended to provide that reasonable costs incurred by land holders in negotiating an agreement are compensable by resource companies (with consideration of a capped amount), including where the resource company withdraws from the negotiations prior to finalising the agreement.

[117] Productivity Commission 2013, *Mineral and Energy Resource Exploration*, Inquiry Report No. 65, Canberra, p. 18.
[118] Property Rights Australia, *Submission no.202*, p.2.
[119] Donnie Harris Law*, Submission no.19,* p.2.

Role and Jurisdiction of the Land Court

The Bill provides for changes to the operations of the Land Court, both with respect to its jurisdiction in relation to a CCA and with respect to matters that the Land Court can consider when hearing an objection to a mining lease application.

The Bill provides for additional jurisdiction for the Land Court in relation to a CCA.

> ***Part 7 Additional Land Court jurisdiction for compensation and related matters***
>
> ***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.*
>
> ***96 Additional jurisdiction for compensation, conduct and related matters***
>
> *(1) This section applies to a resource authority holder and an eligible claimant (the **parties**) if any of the following apply—*
>
> *(a) the 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 resource authority holder's compensation liability to the eligible claimant;*
>
> *(b) decide a matter related to the compensation liability;*
>
> *(c) declare whether or not a proposed authorised activity for the relevant resource 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).*

The proposed change implements one of the recommendations from the Land Access Implementation Committee,

> *The Committee agrees that either a landholder or a resource authority holder, should be able to refer the matter to the Land Court where negotiations have not achieved a CCA because conduct issues cannot be agreed. This extension of the Land Court's jurisdiction would enable the court to make determinations about the conduct terms and conditions that should form part of a CCA.* [120]

which largely was the subject of supportive comments from land holders.

> *If we look as some of the key provisions of the Bill, we can congratulate the government on the initiative to broaden the role of the Land Court so it can take into account "conduct" ,*

[120] Queensland Government, 2013, 'Land Access Implementation Committee Report', p.11.

when hearing matters related to "Conduct and Compensation" – a positive move, and one that Cotton Australia has previously called for.[121]

Clause 330 removes the jurisdiction of the Land Court to consider and make recommendations concerning the enforcement and interpretation of contractual conditions.

330 Omission of s 32I (Jurisdiction for contract conditions)

Section 32I—

omit.

Land Court Act 2000

Part 2 Land Court

32I Jurisdiction for contract conditions

(1) A relevant person may apply to the Land Court for an order—

(a) for the enforcement of contract conditions; or

(b) to decide a matter under contract conditions; or

(c) making a declaration about the interpretation of contract conditions.

(2) The Land Court must hear and decide an application under subsection (1) and may make the order it considers appropriate.

(3) Without limiting subsections (1) and (2), a reference in contract conditions to the LRT must, if the context permits, be taken to be a reference to the Land Court in its cultural heritage division.

With respect to matters that the Land Court can consider when hearing an objection to a mining lease application, the Explanatory Notes state:

To support the streamlined and less duplicative process, the Bill will also clarify the matters that the Land Court can make determinations on, to ensure that the matters are appropriate to the purpose of the Mineral Resources Act 1989 and do not duplicate the Court's jurisdiction under the Environmental Protection Act 1994. The breadth of the matters the Land Court can currently consider when hearing an objection to a mining lease application is extensive and includes the right to hear objections on environmental matters—a legacy of the era prior to the commencement of the Environmental Protection Act 1994—which increases the complexity of the Land Court processes.

Removing the duplication and clarifying the jurisdiction of the Land Court in hearing objections against mining lease applications will ensure the integrity of the Land Court's role is preserved and will assist the Land Court to process and determine matters more efficiently.[122]

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

(4) Section 269(4)(b) to (m)—

omit, insert—

[121] Cotton Australia, *Submission no.6 supp*, p.2.
[122] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 10.

(b) the proposed mining operations are an appropriate land use, having regard to the current and prospective uses of the land the subject of the proposed mining lease; and

(c) the proposed mining operations will conform with sound land use management; and

(d) the proposed mining operations, including, for example, the extent, type, purpose, intensity, timing and location of the operations, are appropriate, having regard to the likely impact of the activities on—

(i) the surface of the land the subject of the proposed mining lease; and

(ii) infrastructure owned or managed by the relevant local government; and

(iii) affected persons; and

(e) the proposed access to the land the subject of the proposed mining lease is reasonable.

This clause reduces/revises the list of matters the land court can consider during a mining lease objection.

269 Land Court's recommendation on hearing

(4) The Land Court, when making a recommendation to the Minister that an application for a mining lease be granted in whole or in part, shall take into account and consider whether—

(a) the provisions of this Act have been complied with; and

(b) the area of land applied for is mineralised or the other purposes for which the lease is sought are appropriate; and

(c) if the land applied for is mineralised, there will be an acceptable level of development and utilisation of the mineral resources within the area applied for; and

(d) the land and the surface area of the land in respect of which the mining lease is sought is of an appropriate size and shape in relation to—

(i) the matters mentioned in paragraphs (b) and (c); and

(ii) the type and location of the activities proposed to be carried out under the lease and their likely impact on the surface of the land; and

(e) the term sought is appropriate; and

(f) the applicant has the necessary financial and technical capabilities to carry on mining operations under the proposed mining lease; and

(g) the past performance of the applicant has been satisfactory; and

(h) any disadvantage may result to the rights of—

(i) holders of existing exploration permits or mineral development licences; or

(ii) existing applicants for exploration permits or mineral development licences; and

(i) the operations to be carried on under the authority of the proposed mining lease will conform with sound land use management; and

(j) there will be any adverse environmental impact caused by those operations and, if so, the extent thereof; and

(k) the public right and interest will be prejudiced; and

(l) any good reason has been shown for a refusal to grant the mining lease; and

(m) taking into consideration the current and prospective uses of that land, the proposed mining operation is an appropriate land use.

Based on clause 424, the list of matters removed from the jurisdiction of the Land Court, remain as they did previously at s 271 of the *Mineral Resources Act 1989*, under the Minister's jurisdiction to consider these matters when deciding the mining lease application. This is not a change as the Minister could already consider these matters.

The committee received evidence from submitters and witnesses raising broad concerns at the proposed changes to the role and jurisdiction of the Land Court, particularly in the context of the nature of its decision (being a recommendation) and the extent of regulator discretion.

The criteria to be considered by the Land Court, when hearing an objection to a mining lease and Environmental authority application, should be retained by that independent Court, with no criteria transferred exclusively to the Minister.[123]

We do not think it is appropriate to delegate the abovementioned powers to the minister. To do so has the very real potential to allow industry to unduly influence outcomes and compromise ministers. It will in the least cause an appearance of lack of impartiality particularly when so many objection rights are being taken away.[124]

Further, I do not like the idea that many issues that the Land Court now considers in hearing an objection to a mining lease and Environmental authority will no longer be considered by the Land Court – an independent body but rather the Minister. This particularly concerns me when my rights to object are being diminished. I feel like the Minister will have all the say and this concerns me particularly when I hear what has been occurring recently in NSW. If I chose I want to be able to have say and have that say heard by an independent person i.e. the Land Court.[125]

The committee sought further advice from the department on the basis for limiting the matters which may be considered by the Land Court and what alternative options may be available to raise objections to mining leases and Environmental Authorities outside the revised jurisdiction of the Land Court.

The department advised:

The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the Mineral Resources Act 1989 to condition. This, in turn, increases the cost to the applicant and the community.

There are currently a range of proceedings that are brought before the Land Court that can and do result in delays in progressing applications that may be avoided.

Therefore, a review of the existing provisions of section 269(4) was undertaken in consultation with the Land Court and the Department of Justice and Attorney-General.

The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction (section 269(4)(j)) or by the Minister without the advice of the Court (section 269(4)(b), (c), (d), (e), (f), (g), (h), & (k)) or should be omitted as they were unnecessarily broad and vague (section 269(4)(k) & (l)).

[123] Environmental Defenders Office Queensland, *Submission no. 5 supp*, p.3.
[124] Shine Lawyers, *Submission no.14*, p. 19.
[125] Jaala Stott, *Submission no.73*, p. 3.

The review also identified that additional considerations were required by the Court to ensure they could adequately deal with objections from local government and owners of land over which access to a proposed mine is required. These have been added to the Court's jurisdiction.

The changes in the Bill to the jurisdiction of the Land Court ensure that the issues considered by the Court relate to the impacts of the proposed tenure on those directly impacted by the proposed mining lease application.

The Minister must still have regard to matters that will no longer require consideration by the Court when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been excluded from the Court's consideration.

As such, the proposed legislation seeks to achieve a balance between individual and community interests.

Additional rights to object are provided under the Environmental Protection Act 1994 in regard to environmental impacts for site-specific applications for an Environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object.

Particular objection rights that pertain to other Acts such as the Environment Protection and Biodiversity Conservation Act 1999 (Cwth), Aboriginal Cultural Heritage Act 2003, Water Act 2000, Nature Conservation Act 1992, Plant Protection Act 1989, Land Act 1994, would be contained in those Acts where they are relevant and necessary.[126]

The Land Court advised:

There is still some jurisdiction that is there for the court to consider. Certainly it is reduced, but there would still be a hearing on those matters. I guess the only effect would be a reduction in the hearing time of those objection matters, because there are only limited grounds now which the court can consider.

…Having said that, there are very few land access matters that come before the court. I think we have only had a handful, if that; maybe three to five matters, if that, before the court.

Once a matter is in the Land Court, so to speak, then usually it is a matter of weeks or even within a month that the court would set it down for directions, with a view to then progressing the matter to a hearing as soon as possible. The court generally does try to give priority to these land access matters, particularly because of that Land Court exemption that allows mining companies to enter the land once the matter has been referred to the court after giving an entry notice and waiting 10 business days. The Land Court is mindful of that and does try to give priority.[127]

Committee Comment

The committee acknowledges the concerns raised during its inquiry as to the proposed changes to considerations that otherwise appear consistent with the general powers of the Land Court to act according to equity, good conscience and the substantial merits of the case. The committee accepts that the department's advice that some considerations can be improved in terms of modern drafting style, and some added to ensure that the Land Court could adequately deal with objections (e.g. local

[126] DNRM 2014, *Correspondence*, 25 August, p. 10-1.
[127] Farrell, L., 2014, *Draft public hearing transcript*, Brisbane, 27 August, p.2-3.

government). For example, the committee is of the view that the existing consideration around 'the extent of mineralisation and/or planned mineral utilisation on the land' has been captured in the drafting of the new provisions, as part of 'the proposed mining operations are an appropriate land use, having regard to the current and prospective uses of the land the subject of the proposed mining lease'].

8. Other Matters

Definitions

Submitters to the inquiry raised concern for the effectiveness and/or completeness of a number of definitions included in the Bill. These included the definition for 'owner', 'occupier', 'place of worship' and 'residence' as discussed below.

Clause 12 defines the term '***owner***' of land with reference to Schedule 1 of the Bill :

> *(1) An **owner**, of land, means each person as stated in schedule 1 for the land.*
>
> *(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.*
>
> ***Schedule 1 Owners of Land***
>
> ***1 Freehold land***
>
> *The **owner** of freehold land is the registered owner of the land.*
>
> ***2 Deed of grant***
>
> *The **owner** of land for which a person is, or will on performing conditions, be entitled to a deed of grant in fee simple, is that person.*
>
> ***3 Fee simple being purchased from State***
>
> *The **owner** of land that is an estate in fee simple being purchased from the State is the purchaser.*

This definition is relevant to the applicability of various clauses in the Bill, in particular the circumstances where notification (land access, entry notice and resource applications) and objection provisions apply. Based on content of the Bill, the committee are concerned that it remains unclear the extent to which 'owner' includes 'occupier'.

Schedule 2 defines the term '**occupier**' of a place as follows:

> *(a) a person who, under an Act or a lease registered under the Land Title Act 1994, has a right to occupy the place other than under a resource authority; or*
>
> *(b) a person who has been given a right to occupy the place by an owner of the place or another person mentioned in paragraph (a).*

A number of submissions raised concerns with the breadth of the definition of 'occupier'.

> *The term 'right to occupy', used in the definition of 'occupier', is clearly extremely broad and has the potential to not only include leaseholders and persons holding a permit to occupy, but also bare licencees and other persons not located on any public record.*[128]
>
> *The problem with paragraph (b) is that the term "right to occupy" is extremely broad and has the potential to include persons who were not intended to be encompassed by the concept of "occupier". If a broad view were taken of its application, in practical terms it*

[128] APPEA, *Submission no. 1*, p.10

would not be possible for the resource authority holder to comply with, a number of the obligations relating to occupiers- not least because "occupiers" on a broad view of paragraph (b) might include a range of potential persons who are not located on any public record and who might have a very remote, incidental or temporary association with the land.[129]

The department advised:

Occupiers have been included in the restricted land framework as it is not uncommon for hoses located on large properties that are owned by another member of the family to be used as the primary residence without formal arrangements. Other occupiers would include tenants renting a house or a lessee of a business premises.[130]

Clause 68 describes the areas which are 'restricted land' for the purposes of the restricted land provisions in the Bill, as follows:

(3) In this section—

***place of worship** means a place used for the public religious activities of a religious association, including, for example, the charitable, educational and social activities of the association.*

***residence** means a primary dwelling.*

A number of submitters questioned the definition and meaning of 'place of worship', particularly for traditional owners.

Clause 68 of the Bill defines 'restricted land'. There are a number of terms used in this definition that are problematic:

(i) it is unclear what constitutes a 'place of worship' – it is defined very broadly in clause 68(3) to include any permanent building "used for public religious activities of a religious association (including charitable, educational and social activities"…[131]

Clause 68 of the Bill provides for prescribed distances in relation to restricted land for particular infrastructure including places of worship, cemeteries and burial grounds. NQLC requests that flexibility be provided in relation to places of worship and burial grounds as the Aboriginal concept of these places and the non-Aboriginal concept differ. Currently the distances provided of 200m and 50m respectively are not considered to be sufficient.[132]

The department advised:

Under clause 68(1) of the Bill, the proposed definition of restricted land includes, among other things, a permanent building used as a place of worship. The inclusion of places of worship under clause 68 maintains the this type of permanent building as provided under the existing restricted land frameworks of the Mineral Resources Act 1989 (Mineral Resources Act 1989) and the Geothermal Energy Act 2010 (GEA). Clause 68(3) provides further definition of 'place of worship' than is currently provided under either the Mineral Resources Act 1989 or GEA. The proposed definition in the Bill is intended to provide some clarification on the broad definition that exists under the current Mineral Resources Act 1989 and GEA frameworks. The definition would not include private, non-permanent structures not considered a building that would not be ordinarily accessible by members of a particular religious association.[133]

[129] Queensland Law Society, *Submission no. 2*, p.14.
[130] DNRM 2014, *Correspondence*, 18 August, p.4.
[131] APPEA, *Submission no.1*, p.9.
[132] North Queensland Land Council, *Submission no.192*, p.4.
[133] DNRM 2014, *Correspondence*, 18 August, p.3.

AND

> *While the restricted land framework will apply to aboriginal burial places, the primary protection framework for aboriginal heritage, including burial grounds and places of worship, is through the Queensland Aboriginal Cultural Heritage Act 2003 and to the extent it applies, the Commonwealth Native Title Act 1993.*[134]

In relation to the definition for 'residence' AgForce Queensland advised:

> *Also there are some issues surrounding homesteads. In the past there has been some confusion between acts about areas that are 200 metres, 600 metres, et cetera. We are not sure that the Bill adequately clarifies that. It is a big issue for our members because their homes are their businesses and vice versa, and anything that disturbs the homestead is seen to be of a high level of stress for producers. Some clarification and maybe a bit more rigour in terms of what are the rules surrounding restrictions around homesteads would be welcomed.*[135]

Committee Comment

The committee has considered a number of definitions fundamental to the interpretation of the Bill and operation of the legislation in view of issues or concerns raised by submitters and witnesses. It is the committees view that, where these definitions are not clear, they may impact on the understanding and intended operation of the legislative framework, and increase the likelihood of dispute and litigation.

Transitional provisions

Clause 200 provides for a broad ranging transitional regulation making power that will operate retrospectively to a day not earlier than the day of commencement.

> ***200 Transitional regulation-making power***
>
> *(1) A regulation (a **transitional regulation**) may make provision about a matter for which—*
>
> > *(a) it is necessary or convenient to assist in the transition to a simplified common framework for managing resource authorities in relation to the particular matters dealt with in this Act; and*
> >
> > *(b) this Act does not make provision or enough provision.*
>
> *(2) A transitional regulation may have retrospective operation to a day that is not earlier than the day of commencement.*
>
> *(3) A transitional regulation must declare it is a transitional regulation.*
>
> *(4) This section and any transitional regulation expire 1 year after the day of commencement.*

The Explanatory Notes provide the following justification for the transitional regulation:

> *This provision is necessary to ensure that any transitional issues which might arise because of the introduction of the new framework, under which the new common provisions Act will operate alongside the existing Resource Acts, can be addressed in a timely manner through regulation. Although this provision may be considered a departure from the FLP, its operation is limited. Regulations may only be made in relation to matters for which it is necessary or convenient to assist the transition where the Act does not make provision or*

[134] DNRM 2014, *Correspondence*, 18 August, p.17.
[135] Dillon, S. 2014, *Draft public hearing transcript*, Brisbane, 27 August, p.4.

enough provision. In addition, a one year sunset clause applies to the provision and any transitional regulations made pursuant to the transitional regulation-making power.[136]

The committee sought further advice as section 4(3)(g) of the Legislative Standards Act 1992 (the LSA) provides that legislation should not adversely affect rights and liberties, or impose obligations retrospectively. Strong argument is required to justify an adverse effect on rights and liberties, or imposition of obligations, retrospectively.

The department advised:

This power is intended to apply where the Common Provisions Act, through the modernisation of the five Resource Acts into a single piece of legislation, may not have provided provision or enough provision to assist in this transition. The undertaking to combine five Acts into one is not straightforward and it may be expected that unforeseen issues may not be realised until after commencement. Such a power is necessary to ensure the regulation of the resources industry continues to be effectively managed if a situation arises until appropriate legislative amendments can be proposed.

To assist with implementing the common legislative framework, a regulation may have limited retrospective operation to the date of commencement. The transitional regulation making power and any transitional regulation made will expire one year after commencement.

Transitional regulation-making powers similar to that proposed in clause 200 are not uncommon in the Queensland statute book for similar purposes, particularly to assist with the transition from one Act to another. Some examples include section 108 of the Regional Planning Interests Act 2014 that has retrospective operation to the date of commencement and subsequent expiry, as does section 113 of the Education (Queensland Curriculum and Assessment Authority) Act 2014, section 9A of the Health Practitioner Regulation National Law Act 2009, sections 871, 960, 971, 990 of the Sustainable Planning Act 2009, sections 140 and 141A of the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 and section 205 of the Nature Conservation Act 1992.[137]

Committee Comment

The committee heard from submitters as to their concerns regarding the detail of regulations proposed with the Bill; hence the committee accepts the advice of the department with respect to the need for transitional regulation-making powers to respond to unforeseen issues.

[136] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 41.
[137] DNRM 2014, *Correspondence*, 25 August, p. 18-9.

9. Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that 'fundamental legislative principles' are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The committee sought advice from the Department of Natural Resources and Mines in relation to a number of possible fundamental legislative principles issues. The following sections discuss the issues raised by the committee and the advice provided by the department.[138]

The committee thanks the department for its advice, and has made further comment only where the committee has subsequently made a recommendation.

Rights and liberties of individuals

Does the Bill have sufficient regard to the rights and liberties of individuals? - Section 4(2)(a) *Legislative Standards Act 1992*

a) Restricted land (clause 68)

Clause 68 provides that the term 'restricted land' no longer applies to infrastructure such as principal stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply. Further, landholder consent will no longer be required before resource activities can be undertaken within a specified distance from this infrastructure. The potential impacts to this infrastructure from resource activities will require the negotiation of a CCA between the landholder and the resource authority holder prior to any advanced activities (those likely to cause an impact) being undertaken. The application of restricted land to a particular building or area is based on the use of the building or area at the date the resource authority was granted.

What constitutes restricted land will also be prescribed by regulation as discussed in the Explanatory Notes:

> *A regulation may prescribe for additional buildings and areas that will invoke the restricted land requirements. For example, a regulation could prescribe a building used for a veterinary practice or for retail activities.*
>
> *A regulation may also prescribe buildings or areas that will not invoke the restricted land requirements. For example, a regulation could prescribe a pump shed, a hayshed, a roadside stall, or a building used for temporary accommodation.*[139]

Potential FLP issues

The Explanatory Notes recognise that clause 68 may constitute an FLP breach:

> *Arguably, the fact that restricted land no longer applies to these infrastructure types could be seen as a breach of a FLP under the Legislative Standards Act 1992 section 4(2)(a) which requires legislation to have sufficient regard to the rights and liberties of individuals.*[140]

Section 4(2)(a) of the *Legislative Standards Act 1992* provides that sufficient regard should be given to the rights and liberties of individuals and their ordinary activities should not be unduly restricted.

[138] DNRM 2014, Correspondence, 25 August.
[139] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 73.
[140] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 35.

Given the change in the definition as to what constitutes restricted land, landholders who were previously not affected and who have principal stockyards, bores, artesian wells, dams and other artificial water storages, will potentially have to negotiate a CCA with a resource authority holder.

The Explanatory Notes provide the following justification for the section:

> *The proposed changes are not considered a breach of a FLP as potential impacts on these infrastructure types are managed through the negotiation of a conduct and compensation agreement between the landholder and the resource authority holder.*
>
> *Potential impacts on these infrastructure types from all non-coal and mineral resource activities are already managed under the conduct and compensation agreement framework. The proposed changes ensure that this approach is consistent across the mineral and coal sectors as well.*
>
> *The conduct and compensation agreement framework is the appropriate mechanism to manage potential impacts on these infrastructure types, as a range of potential solutions exists to ensure appropriate conduct and compensation. It is not a mechanism for compulsory acquisition, but a mechanism to facilitate coexistence wherever possible. Importantly, the conduct and compensation agreement framework provides for compensation to relocate infrastructure if necessary.*[141]

The committee is concerned that the expanded definition of 'restricted land' may impinge on landholders in a greater way, and may see more landholders having to enter into CCAs with resource companies. The committee is also concerned that, whilst this may provide flexibility to respond to the changing nature of industry and landholder circumstances, shifting away from legislated protections to individual CCAs removes the certainty/security for landholders as to the protection afforded them and their property assets, and may lead to more matters requiring arbitration where parties fail to agree.

Request for advice:

The committee sought advice from the department on the rationale for changing the definition of 'restricted land', and what problems the proposed changes aim to correct for industry.

DNRM advice:

> *The rationale for the proposed definition of restricted land, in contrast to the existing framework under the Mineral Resources Act 1989 is to reach a single, consistent framework for gaining access to land near residences and other critical infrastructure for all resource activities.*
>
> *The proposal in the Bill that would see stockyards, dams, bores etc. not being considered restricted land was based on the fact this type of infrastructure is currently provided for under the CCA framework for the petroleum and gas sector and for greenhouse gas storage activities.*
>
> *These sectors do not currently have restricted land requirements, and in coming to a consistent framework for all sectors, the petroleum, gas and greenhouse gas storage process was adopted to provide a balanced approach. The restricted land framework for mineral and coal activities was introduced before the land access framework in 2010. Therefore there is now an alternative mechanism available for this type of infrastructure to be provided adequate consideration on potential impacts from resources activities.*

[141] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 35.

The rationale is not about correcting a problem for industry, but selecting the most appropriate aspects of the various land access related provisions in reaching a balanced framework for addressing resource activities in close proximity to homes and businesses under a common Act.

The Bill does propose to repeal the 600 metre rule under the private land access framework that was introduced in 2010. This requires a CCA for no/low impact activities (preliminary activities) within 600 metres of an occupied residence or school. Outside of 600 metres, a CCA is not required for preliminary activities. This requirement can be onerous for both parties to negotiate a CCA for activities like walking and driving that usually would not result in a compensatable effect. The Bill proposes to replace the 600 metre rule with restricted land, a higher level of protection for landholders where consent is needed for most resource activities in close proximity to homes and businesses.

Committee comment

The committee is satisfied with the department's advice.

Request for advice:

The committee sought advice from the department on the feedback received from industry groups during the department's consultation processes in relation to the proposed changes contained in clause 68, and whether these reforms are supported by landholders or their representative bodies.

DNRM advice:

Through submissions to the consultation Regulatory Impact Statement entitled "Towards a standardised consent framework for restricted land across all tenure types", landholders, legal representatives and the community demonstrated support for the intent of the reforms to deliver a consistent framework for resource companies accessing land. However, these groups have identified concerns with the changes that restricted land will no longer apply to stockyards, bores, dams and other water infrastructure. Some stakeholders are also concerned about the changes to CCA requirements, in particular that a CCA will not be required prior to entering land to undertake no or low impact (preliminary) activities within 600 metres of a residence.

The resource industry is generally supportive of the proposed changes. Some industry members have sought clarity on the resource activities that restricted land will apply to and on the definitions of residences and buildings for business purposes. For example, industry suggested that construction associated with subsurface infrastructure should not require landholder consent.

Request for advice:

The committee sought advice from the department as to the requirements of affected parties to enter into CCAs with resource companies. The committee is seeking assurances that this reform does not place additional and unduly onerous burdens on landholders.

DNRM advice:

The negotiation of a CCA or deferral agreement can be commenced under the legislative framework by the serving of a notice of intention to negotiate by a resource authority holder to a landholder under clause 82(1).

However, the department understands in practice most parties commence discussions prior to any issue of a notice of intent to negotiate. A CCA may be agreed without a notice of intention to negotiate, however the parties cannot utilise conferences or Alternative Dispute

Resolution (ADR) provisions or be referred to the Land Court unless the notice is given. The negotiation process is reflective of what is contained within the existing resources Acts.

If a notice of intent to negotiate is served, clause 83 requires parties to use all reasonable endeavours to negotiate a CCA or deferral agreement during the prescribed minimum negotiation period (which is proposed to be prescribed by regulation as 20 business days, reflecting the existing resources Acts) or a longer period if so agreed by the parties.

If the parties are unable to negotiate a CCA or deferral agreement at the end of the minimum negotiation period, clause 86 provides that either party may seek a conference or ADR process. A party may, by written notice to the other party:

ask for a departmental officer to call a conference to negotiate a CCA; or

call upon other party to agree to ADR process to negotiate a CCA. This can be any type (e.g. arbitration, mediation). The party calling the ADR is liable for its costs.

Parties have a further 20 business days (as specified in clauses 87(3) and 88(2)) or longer if agreed to negotiate a CCA at a conference or ADR process. If an agreement is reached within the 20 business days, a resource company can enter upon the relevant land in accordance with the terms of the agreement.

If negotiations are still unsuccessful, an application can be made to the Land Court to decide the resource authority holder's compensation liability, obligations or limitations when carrying out authorised activities (clause 94(2)) or conduct that the parties cannot engage in (clause 95(2)(b)). The application to the Land Court can only be made if a notice of intention to negotiate is served and both the initial negotiation period and a departmental conference or ADR negotiation was unsuccessful in accordance with 94(1); parties are required to have exhausted both means prior to making an application to the Land Court.

Upon an application being made to the Land Court, clause 43(1)(d) provides that a resource authority holder can enter the relevant land to perform advanced activities. A resource authority holder however must comply with the entry notice provisions (clause 39) which provide that entry to land to carry out authorised activities cannot occur unless an entry notice has been given at least 10 business days before entry.

There will be no increase in burden, including the requirement for landholders to enter into CCAs, by those currently affected by any existing resource authority, or applications for authorities lodged prior to commencement. Upon commencement there will be no increase in the requirements for landholders affected by future petroleum and gas projects, or greenhouse gas storage activities.

For authorities where restricted land would no longer apply to stockyards, dams, bores etc., CCAs or compensation agreements will still need to be negotiated. However; in these negotiations there may now be additional matters to address in relation to proposed activities within 50 metres of stockyards, bores, dams etc. Previously under the restricted land framework, the landholder could have otherwise withheld consent.

b) Public notification and objection rights for mining claims and mining leases (clauses 398, 415, 417, 418, 420, 421 and 423)

Clause 398 omits existing sections 64, 64B, 64C, and 64D and inserts a new section 64 (Issue of a mining claim notice), 64A (Documents to be given to affected persons) and 64B (Declaration of compliance with obligations). The new sections provide that a mining claim application will not be publically notified. Notice of the application will, instead, be sent directly to 'affected persons' who in this instance is limited under a new definition of 'affected person' to landowners and local governments.

Clauses 400 omits section 90 and clause 415 omits sections 240, 241, 242, 243 and 244 of the Mineral Resources Act 1989 removing existing obligations for the use of boundary posts for the purposes of marking out the area of a mining claim and/or mining lease application (i.e requirements for public notification).

Clause 418 omits sections 252, 252A, 252B, 252C and 252D and replaces them with new provisions. The new sections provide that mining lease applications will not be publically notified. Notice of the application will, instead, be sent directly to 'affected persons' namely, landowners, occupiers, infrastructure providers and local governments.

Clause 420 omits section 260 of the Mineral Resources Act 1989 - Objection to application for grant of mining lease and inserts a new section 260 - Objection by affected person.

This section removes public objection rights by limiting the right to lodge an objection to an owner of the land the subject of the application, an owner of land necessary for access to the land within the proposed application and the relevant local government (i.e. affected persons). The objection may only be in relation to matters listed under section 260 (4).

Potential FLP issues

The abovementioned clauses (398, 400, 415, 417 – 418, 420-421, and 423) potentially affect the rights and liberties of individuals pursuant to section 4(2)(a) of the Legislative Standards Act 1992. Given that no public notification will be made for mining applications (other than for 'site specific' applications under the Environmental Protection Act 1994) and that objection rights will be restricted, the amendments will potentially affect the rights of individuals who neighbour a resource activity and the rights of the broader community/ general public to be notified and to objecting to the issuing of mining claim and/or mining lease.

The Explanatory Notes provide the following justification for the amendment:

> *The removal of these established statute law rights (i.e. the broader public right to object to a mining lease or a low risk EA) is justified on the basis that:*
>
> - *the current situation is inequitable to miners;*
> - *provides no proportionality of assessment based on risk; and*
> - *where low impact mining lease applications do attract objections about highly technical and financial matters, they are regularly lodged where no evidence is brought to the court by the objector.*
>
> *The general community tends to be more concerned about high impact and very high impact proposals, which attract multiple submissions and objections. These proposals will continue to be subject to public notification and third party objection rights. Objections against these proposals are typically supported by consultant reports and other expert evidence.*
>
> *Those directly affected by the mining operation (i.e. landholders, occupiers, infrastructure providers and local governments) will still be notified of the project via direct notification of the mining lEase application, and landholders and local government will have a right to object under the Mineral Resources Act 1989. These rights are provided to landholders due to a direct impact on the person's ability to use and/or access their land. Local government is included due to the potential for impact on the services and infrastructure they deliver.*
>
> *As adjoining landholders or community members are not affected in this direct way, and the risks of environmental impacts are assessed as low and the level of development is insufficient to trigger broad scale social impacts, no notification or objection rights are*

proposed for these entities for low risk applications under either the Mineral Resources Act 1989 or the Environmental Protection Act 1994.[142]

The Explanatory Notes also advise that the eligibility criteria to assess high and low risk mining activities (i.e. the assessment criteria for standard and site specific activities) are currently being reviewed by the Department of Environment and Heritage Protection with a view to being finalised by 31 March 2016.[143]

The committee is concerned that under new section 260, people's right to object to the issuing of a mining lease for a resource activity will be unduly restricted to 'affected persons', and that the definition of 'affected persons' has been further limited.

Further, low risk environmental activities/mining lease grants will not be subject to public notification. This will impact persons who live near a resource activity but who are deemed to be 'not directly affected' by its activities as well as the general public/local and wider communities who may not be aware that a resource activity for which there is a public interest is being carried out.

Request for advice:

The committee sought advice from the department as to what social, environmental or other impacts the department considers to be relevant to the consideration of mining lease applications.

DNRM advice:

It is necessary to clarify the Committee's statement made in relation to these clauses.

Clause 398 replicates notification requirements under the current legislation; there is no requirement for broad public notification of a mining claim in the Mineral Resources Act 1989. The notification requirements identified in existing section 64B(2)(c) which identifies who must be notified are replicated in proposed section 64A(3).

There are no rights for adjoining landholders or the general community to object to a mining claim application under the existing provisions of the Mineral Resources Act 1989.

As such the department is of the view that there are no FLP issues in relation to proposed clause 398.

The department is of the view that the provisions in the Bill provide a far greater level of surety for any person to be able to identify the boundaries of a mining lease or claim than the existing provisions of the Act, without any loss of public notification as to the location of the boundary of the tenement. Indeed the department, and the vast majority of stakeholders, is of the view that the proposed boundary definition regime enhances public notification of a mining lease in comparison to the current regime.

The provisions of the Bill provide for alternatives to the use of physical monuments and performance criteria that must be met by the applicant when defining the boundary. The current legislation requires a monument to be of a certain physical dimension and characteristic without any consideration of the situation in which the monument is installed or other performance criteria such as: accuracy, visibility, appropriateness, durability, etc. When assessing whether a boundary definition, whether identified by physical monuments or an alternative means, when deciding whether the definition is clear and unambiguous and capable of identifying the boundary on the land consideration of such matters will be required and included in a Practice Manual available to any person.

[142] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 36.
[143] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, pp. 36-37.

The sole requirement of the existing legislation is that at the point in time the application is lodged with the department, physical monuments must exactly comply with the prescriptive requirements in the Act. A requirement that resulted in perverse outcomes, where despite:

- *being clear and unambiguous, an application had to be remade because the physical monument was less than one centimetre less than the prescriptive requirement in the Act or that three instead of four monuments had been used despite Each monument being clEarly visible from the previous monument.*
- *complying with the prescriptive requirements of the legislation the boundary of a tenement could not be identified in the field due to fire, flood, pest (termites, wild animal disturbance, etc.), etc.*

The proposed legislation also includes performance criteria that must be met whichever methodology is used to define a boundary of a mining lease or claim in that the boundary must be clear and unambiguous and capable of being located on the ground. Neither of these criteria previously existed.

In addition, under the current methodology the only way to identify the boundary of the tenement via use of a physical monument is to physically access the land. Whilst this may have been a suitable means of notifying the public in the 1890s, when the methodology was first adopted, because the primary means of crossing the land was on horseback, it has little relevance in today's modern society. Given that most mining tenements are isolated from main and public thoroughfares, accessing land to inspect physical monuments would usually require a person to trespass on the land.

As such, the placement of physical monuments has little if any value in publicly notifying the boundary of a proposed mining tenement.

While it is important that the boundaries of a mining lease should be identified, there is an opportunity to reduce the regulatory burden on the industry by questioning the need for physical pegging. The advancement and availability of modern technology, such as Geospatial Information Systems (GIS) in combination with the global positioning system (GPS), has scope to make physical marking redundant.

The provisions in the Bill will ensure that any stakeholder can locate the boundary of the lease or claim without any additional material than the definition provided with the application. In addition, where it is deemed appropriate, the Bill includes options for the chief executive to require additional definition, including the placement of physical monuments, prior to an application being lodged, after an application is lodged but prior to it being decided, and/or after a mining lease or claim is granted where circumstances warrant.

An application may only be accepted if the boundaries can be clearly and unambiguously identified by alternative means such as a combination of topographical maps, aerial photography and satellite image. Once accepted, the boundary of the lease will be available on the department's website and be given to directly affected persons. As such, it is considered the new methodology provides an enhanced public notification methodology in comparison to the existing legislation.

Changes proposed in the Bill will also require an applicant to provide a graphical representation of the boundary where physical monuments are used to define the boundary to ensure that those persons and stakeholders that do not have access to the land can identify the boundary of the proposed tenement.

The removal of prescriptive pegging requirements, in circumstances that warrant it, would result in savings for potential mining lease and claim applicants in avoided pegging costs. The time saved in the application process could be weeks to months, especially if there were access issues related to the wet season, a common issue in North Queensland.

The provisions in the Bill provide no barriers to any person to being able to identify the boundary of a mining lease or claim and as such the department is of the view that they do not breach FLPs.

As with other forms of development, the issues and impacts that are relevant to the development proposed should be considered for a mining proposal. As these issues are specific to the development proposed, each mine will have its own characteristics and impacts, and it is not possible to say what issues should be assessed for every mine even in a general sense.

However, consistent with the government's stated policy position to reduce regulatory burden for low risk development, the department is of the view that the issues and level of consideration of any development, including mining, should be linked to the level of the risk of impact from the development.

The proposed new framework seeks to match the need for higher levels of assessment to the risk of impacts rather than seeking to have every applicant undertake a level of assessment that may be inappropriate for the development proposed. That is, the level of assessment is directly proportional to the risk of impact.

Committee comment

The committee is satisfied with the department's advice.

Request for advice:

The committee sought evidence from the department that activities that will be deemed 'low risk' have only localised impacts such that the removal of public notification and objection rights for these activities and their replacement with limited notifications of affected persons would be fair and reasonable.

DNRM advice:

The eligibility criteria and standard conditions for environmental authorities for mining leases are drafted in such a way that only localised impacts are acceptable. This is done by restricting the area of operation, the size of operations and setting limits of operation. The eligibility criteria can be found in Schedule 3A of the Environmental Protection Regulation 2008 and the standard conditions are found in the Code of Environmental Compliance: Mining Lease Projects available on the Department of Environment and Heritage Protection website.

An analysis of mining lease applications over the last five years indicates that for small scale mining applications there have been no objections to the mining lease by parties other than the landholders over whose land the mine is proposed or over whose land access is proposed. For the mining lease application, most of these objections relate to compensation if the mining lease is to be granted. The Bill will ensure that those applicants that have objected to these applications will continue to be notified and will have a right to object to the proposed mining lease.

Request for advice:

The committee sought examples from the department of what would constitute 'low risk' and 'site specific' mining lease applications and environmental authorities to demonstrate the application of the changes in relation to public notification and objection rights.

DNRM advice:

The eligibility criteria for environmental authorities relating to mining leases are currently included in schedule 3A of the Environmental Protection Regulation 2008.

For a standard Environmental authority application, the applicant must demonstrate that the project meets the eligibility criteria and that they can meet the published standard conditions for the environmental authority. Consequently, the project must (for example):

(a) Not be coal mining

(b) Not be in a category A or B environmentally sensitive area

(c) Not cause more than 10ha of land to be significantly disturbed at a time, with only 5ha of that disturbance to be active mine workings

(d) Not cause more than 5ha of significant disturbance at a time in a riverine area

(e) Not be carried out by more than 20 persons at a time

(f) Minimise the area and duration of disturbance to land and vegetation

(g) Prevent or minimise sedimentation of any watercourse, waterway, wetland or lake

(h) Prevent any potential or actual release of a hazardous contaminant

(i) Not directly or indirectly release waste from the project area to any watercourse, waterway, groundwater, wetland or lake

(j) Rehabilitate areas disturbed by mining activities to a stable landform, similar to that of the surrounding undisturbed areas.

The examples in 1 to 5 above are taken from the eligibility criteria, and 6 to 10 above are taken from the standard conditions.

Under the changes, this type of mine would no longer require public notification and there would be no third party objection rights for the Environmental authority application.

Mining projects that would require a site-specific Environmental authority are any coal mine or a large metal ore mines. There is no change to the requirement for public notification for this type of mine and submissions and objections can be lodged by any person. The exception is where the project has gone through the Coordinator-General's environmental impact statement process. Any conditions that have been directed by the Coordinator-General to be placed on the Environmental authority are not subject to objection rights.

Request for advice:

The committee sought advice from the department as to the rationale behind the changes to notification and objection rights, including how the current process is '*inequitable to resource companies*', as stated in the Explanatory Notes.

DNRM advice:

The Explanatory Notes refer to the fact while that some mining activity has been deemed to have a low risk of environmental impact, unlike other development that has also been deemed to be a low risk, it does not have access to streamlined and reduced levels of assessment.

Examples of the types of development that are deemed to be eligible to be considered a low risk of environmental impact are:

- *a petroleum pipeline of less than 150km;*
- *or operating a:*

- *quarry of less than 100,000 tonnes per year;*
- *10,000 sheep feedlot;*
- *200,000 bird poultry farm;*
- *200 cubic metre per year or more water based paint factory;*
- *100 person sewage treatment plant if treated effluent is used for irrigation;*
- *5000 tonne per year abattoir;*
- *200 tonne per year or more cannery;*
- *an alluvial, claypit, dimension stone, hard rock, opal or shallow pit mine of less than 10 ha of total disturbance (5 ha of mine disturbance) employing less than 20 people and not in an environmentally sensitive area.*

Of all of these activities the only one which does not currently have a reduced level of assessment and approval is mining.

The eligibility criteria and standard conditions for these types of activities have been operational since December 2000 (and thousands of sites have operated successfully under them). Although they have always been advertised, an analysis of objections received over the last five years indicates that there have been no objections from the general public or broader community. This suggests that the standard conditions adequately manage the impacts that the broader community are interested in.

Request for advice:

The committee sought advice from the department as to what consultation has been undertaken in relation to these specific reforms, and what feedback the department received from industry and landholder groups.

DNRM advice:

The mining industry generally has advised of the need for legislative change to reduce the regulatory burden and the red tape for resource companies. The government's Six Month Action Plan January – June 2013, signalled its intent to reduce red tape for the small scale alluvial mining sector as part of its broader commitment to reduce the regulatory burden on business by 20 per cent by 2018.

In August 2012, through the Agriculture, Resources and Environment Committee's (AREC) Agriculture and Resources Inquiry, the North Queensland Miner's Association (NQMA), as 'the voice' of the North Queensland (NQ) mining industry, identified a range of issues that are constraining the resources sector in NQ[144]*.*

The key issues made in that submission included the need to:

- *reduce the regulatory burden and red tape associated with lengthy and expensive approval processes;*
- *develop more flexible mining regulation to suit the NQ region;*
- *provide some balance into the public debate and perception of mining and miners.*

The issues raised by NQMA were mirrored by the Queensland Small Mining Council (QSMC) in their written submission and evidence given to AREC's Inquiry into the Mining and Other Legislation Amendment Bill 2013[145]*. QSMC advised, while they were grateful for and supportive of the package of reform that had been delivered for the small scale opal and gemstone sector, a further package of red tape reduction initiatives specifically for the small scale alluvial sector was required.*

[144] http://www.parliament.qld.gov.au/documents/committees/AREC/2012/QldARIndustries/submissions/2-NQMA.pdf at p. 5.

[145] http://www.parliament.qld.gov.au/documents/committees/AREC/2012/MiningOLAB12/submissions/013.pdf

The issues raised by NQMA and QSMC reflect concerns that have been expressed by the Queensland Resources Council (QRC) over many yEars. On 5 July 2013, the Hon Andrew Cripps, Minister for Natural Resources and Mines relEased a discussion paper titled 'Small Scale Alluvial Mining Red Tape Reduction Discussion Paper'. The discussion paper was advertised on the department's website and the Department of Environment and Heritage Protection (EHP) and Get Involved websites. Submissions were received and accepted as late as 8 August 2013.

Additional meetings were held with QRC, NQMA, AgForce, Queensland Farmers Federation (QFF) and the Local Government Association of Queensland (LGAQ) and key state agencies. Submissions were received by individual miners and mining companies, QRC, NQMA, AgForce, QFF, LGAQ, Environmental Defenders Office, Queensland Law Society and Cape York Land Council Aboriginal Corporation and several state agencies.

The results of consultation on notification and objection issues were:

- *there was insufficient clarity in the proposed changes for some stakeholders to form a clear or consensus view on an option to address the issues*
- *there was no support for a post grant appeal for mining lease applications under the Mineral Resources Act 1989*
- *there was concern a reform that was to apply to the mining sector generally was included within a small scale alluvial mining discussion paper*
- *more-detailed, targeted and specific consultation was required to enable an informed debate to take place, and*
- *opinions were divided on whether broad consultation on mining lease applications under the Mineral Resources Act 1989 was necessary.*

In response, the Minister for Natural Resources and Mines released a further discussion paper including a detailed regulatory assessment for public consultation on 28 February 2014. That discussion paper detailed options and recommendations for a notification and objection regime that is considered to be more commensurate with the range of risks and impacts of mining projects than the existing prescriptive legislative requirements. The individual initiatives have been designed to provide a cumulative benefit by ensuring the legislation under which notification and objections to mining proposals are regulated work together in a more streamlined and less duplicative manner.

The discussion paper including a regulatory assessment was advertised on the departmental, Get Involved and EHP websites. Submissions on the discussion paper were accepted and considered up to and including 8 April 2014. Additional direct consultation was undertaken with key stakeholders, particularly peak industry bodies including with AgForce, QFF, QRC, Association and Mining and Exploration Companies (AMEC) and the Australian Petroleum Production and Exploration Association (APPEA).

<u>Results of consultation</u>

In total 176 submissions were received from individuals (98), community groups (13), landholders or landholder representatives (20), environmental groups (26), miners (6), peak industry bodies (2), LGAQ, Indigenous representative bodies (2), law firms (2), QLS, infrastructure providers (2), the Construction, Forestry, Mining and Energy Union (CFMEU) and the Queensland Tourism Industry Council (QTIC). One submission was signed by forty four individuals.

Three submissions were lodged on a confidential basis. One was lodged with confidential information attached.

The Department of State Development, Infrastructure and Planning and Department of Justice and Attorney General also lodged submissions.

A broad summary of submissions is provided in Appendix 4 Table 1 of the Decision Regulatory Impact Statement which has been released on the department's website and will also be released on the EHP and the Office of Best Practice Regulation websites[146].

Request for advice:

The committee sought advice from the department as to what impacts on neighbouring and surrounding properties the departments considers would constitute fair grounds for lodging objections to mining leases and environmental authorities; and what avenues of recourse or appeal would be available to the owners and residents of these affected properties should they experience adverse impacts resulting from the grant of a mining lease or environmental authority.

DNRM advice:

In relation to a mining lease:

1. *landholders on whose land the proposed mine is proposed would be able to object on the following grounds:*
    - *whether the provisions of the Act have been complied with;*
    - *the proposed mining operations are an appropriate land use, having regard to the current and prospective uses of the land the subject of the proposed mining lease;*
    - *the proposed mining operations will conform with sound land use management;*
    - *the proposed mining operations are appropriate having regard to the likely impact of the activities on an owner of the land including for instance the impact of the: extent, type and purpose of mining and its intensity, timing and location.*

This list is not exhaustive; it is intended to provide examples of the sorts of things that can be objected to.

2. *A landholder whose land is impacted by access to the proposed mine is able to object on the `following grounds:*
    - *whether the provisions of the Act have been complied with;*
    - *the proposed access to the land is reasonable.*
3. *A local government within which the mine is proposed is able to object on the following grounds:*
    - *whether the provisions of the Act have been complied with;*
    - *the proposed mining operations are appropriate having regard to the likely impact of the activities on the infrastructure the local government owns or manages including for instance the impact of the: extent, type and purpose of mining and its intensity, timing and location.*

This list is not exhaustive; it is intended to provide examples of the sorts of things that can be objected to.

As with all new provisions, it will be open to how the Land Court interprets these provisions as to what the Land Court sees as a fair ground for objecting to the mining lease by meeting the grounds defined in the legislation.

Should owners and residents of these affected properties experience adverse impacts resulting from the grant of a mining lease it would potentially constitute a compliance issue.

[146] http://mines.industry.qld.gov.au/assets/legislation-pdf/decision-ris.pdf at p. 79-92.

It is not an issue relating to the notification and objection framework relating to an application for the mining lease.

In the event that there are adverse impacts from a mining lease that pertains to the Mineral Resources Act 1989, and does not relate to other Acts such as the Environmental Protection Act 1994, Environment Protection and Biodiversity Conservation Act 1999 (Cwth), Aboriginal Cultural Heritage Act 2003, Water Act 2000, Nature Conservation Act 1992, Plant Protection Act 1989, Land Act 1994, there are several avenues of recourse or appeal available.

Under Chapter 13 of the Mineral Resources Act 1989, an authorised officer may give directions to remedy any contravention of the Act. Therefore, in the first instance, an owner or occupier of an affected property that experiences adverse impacts resulting from the grant of a mining lease should contact the department through the local Mining Registrar. The Registrar would be able to determine whether the impact being experienced by the affected person relates to the Mineral Resources Act 1989 or another Act and take the appropriate action, either to follow up and investigate the matter or refer it to the relevant administering authority.

Under section 335F of the Mineral Resources Act 1989 an authorised officer can call a conference with eligible claimants or owners and occupiers if the owner or occupier of the land is concerned about matters including the conduct of the tenement holder and the activities being carried out.

The Land Court has jurisdiction to hear matters arising between applicants or holders and owners of land in relation to mining, compensation, enforcement of any agreement or determination as to compensation, any assessment of damage, injury or loss arising from activities undertaken under the Mineral Resources Act 1989 and any demand for debt or damages arising out of, or made in respect of, the carrying out of mining or any agreement relating to mining.

The Land Court may also review a direction given by an authorised officer.

Should the adverse impacts pertain to the Environmental Protection Act 1994, Environment Protection and Biodiversity Conservation Act 1999 (Cwth), Aboriginal Cultural Heritage Act 2003, Water Act 2000, Nature Conservation Act 1992, Plant Protection Act 1989, Land Act 1994, then jurisdiction for enforcing those Acts rests with the administering authority for the Act. In such instances, no action can be taken under the Mineral Resources Act 1989 in regard to the mining lease.

In relation to the Environmental authority, neighbouring and surrounding properties can make objections on a draft Environmental authority prepared after a site-specific application for a mining lease if they have made a submission on the environmental impact statement or the application for an environmental authority. There are no limitations placed on the grounds of objection under the Environmental Protection Act 1994, but to be considered by the Court, they will need to relate to matters within the ambit of the Environmental authority application, such as particular environmental impacts or the draft conditions. The objector will lodge a notice of objection with the Department of Environment and Heritage Protection (as the administering authority) and the administering authority must then refer the application for the Environmental authority to the Land Court.

The exception is where a condition has been included on the draft Environmental authority at the direction of the Coordinator-General under the State Development and Public Works Organisation Act 1971. Coordinator-General conditions are not subject to objection rights by anyone including the applicant.

In relation to standard applications, the Bill proposes that there is no public notification and therefore, no objection rights to the Land Court. The environmental impacts from these

types of activities are well understood and can be managed effectively with standard conditions.

If environmental impacts should be experienced, then the affected landholder can lodge a complaint with the Department of Environment and Heritage Protection. The department will investigate the complaint and has a broad range of tools available under the Environmental Protection Act 1994 if the operator is in breach of their environmental authority.

Request for advice:

The committee sought advice from the department as to the current status of the eligibility criteria /risk assessment framework for mining activities/environmental authorities, when it will be completed and how this review may impact on the requirements for notification and objection rights for mining activities.

DNRM advice:

The review is not scheduled to commence until late 2014/Early 2015. There is a statutory requirement to consult publicly on the draft eligibility criteria and standard conditions. Additionally, the Department of Environment and Heritage Protection proposes releasing a discussion paper early in the process to explain the review process and obtain Early community input into the review.

The guiding principles for allocation of an activity to the eligible environmentally relevant activity (ERA) assessment track (i.e. eligible for a standard or variation application) are published on the department's website at http://www.ehp.qld.gov.au/management/greentape/pdf/greentape- tracks.pdf.

The review must be complete (i.e. the eligibility criteria commencing operation) by March 2016.

Until the review is undertaken, the department cannot pre-empt how the review may impact on the requirements for notification and objection rights for mining activities.

Notification requirements for environmental authorities (clause 245)

Clause 245 amends section 149 of the Environmental Protection Act 1994 by removing the requirement for public notification of standard applications and variation applications for an Environmental authority for a mining activity.

The Explanatory Notes discuss the current regime as follows:

Under the existing provisions, the notification and Land Court process for Environmental authority applications for mining leases is based on principles that: every application is subject to the notification process (and therefore, third party appeal rights), regardless of the environmental risks associated with the Environmental authority application; and the notification process under the Environmental Protection Act 1994 must occur at the same time as the notification process under the Mineral Resources Act 1989, which restricts the flexibility of notification under the Environmental Protection Act 1994.[147]

Potential FLP issues

The removal of the requirement for public notification is a potential breach of section 4(2)(a) of the Legislative Standards Act 1992 which requires that sufficient regard be given to the rights and liberties of individuals. It is arguable that residents near a resource activity and the community in

[147] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, pp. 118-119.

general should have the right to by publically notified of a new activity, no matter whether it is deemed low or high risk, given the potential impacts that an activity may cause. For example, the noise of an activity being carried could be deemed low risk yet still impinge on the rights of nearby residents.

Request for advice:

The committee sought advice from the department as to the rationale behind clause 245 and, in the absence of public notifications, how local landholders and other affected communities will be made aware of standard applications and variation applications for an Environmental authority for a mining activity.

DNRM advice:

> *The rationale for the limitation of notification rights is based on environmental risk as explained above.*
>
> *Directly affected landholders, infrastructure providers and the relevant local government will be notified in relation to the mining lease application. As the mining lease application and Environmental authority application operate in tandem, those parties will become aware of application in that way.*

Committee comment

The committee is satisfied with the department's advice.

Referral to and jurisdiction of the Land Court (clauses 421 and 423)

Clause 421 replaces section 265 (Referral of application and objections to Land Court). New section 265 provides that an Environmental authority application associated with a mining lease will not be publically notified for what are deemed low risk activities. Pursuant to clause 421, 'site specific' applications will be made public and allowed for public objections under the *Environmental Protection Act 1994*.

Clause 423 amends section 269 (Land Court's recommendation on hearing) to identify the matters the Land Court must consider when hearing an objection to a mining lease lodged under section 260. This section provides that a landholder and local government can only object to the Land Court on grounds that relate to the matters the Land Court can consider under section 269(4) of the *Mineral Resources Act 1989.*

Specifically the Explanatory Notes state:

> *The amendments to section 269 refine the Land Court's consideration to those matters that can be considered by the Land Court by inserting provisions providing that only directly affected landholders whose impacts derive solely from access will be able to object to whether the provisions of the Act have been complied with and whether the proposed access to the land is reasonable.*[148]

Request for advice:

The committee sought advice from the department as to the basis for limiting the matters which may be considered by the Land Court and what alternative options may be available to raise objections to mining leases/environmental authorities outside the revised jurisdiction of the Land Court.

[148] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 159

DNRM advice:

The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the Mineral Resources Act 1989 to condition. This, in turn, increases the cost to the applicant and the community.

There are currently a range of proceedings that are brought before the Land Court that can and do result in delays in progressing applications that may be avoided.

Therefore, a review of the existing provisions of section 269(4) was undertaken in consultation with the Land Court and the Department of Justice and Attorney-General.

The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction (section 269(4)(j)) or by the Minister without the advice of the Court (section 269(4)(b), (c), (d), (e), (f), (g), (h), & (k)) or should be omitted as they were unnecessarily broad and vague (section 269(4)(k) & (l)).

The review also identified that additional considerations were required by the Court to ensure they could adequately deal with objections from local government and owners of land over which access to a proposed mine is required. These have been added to the Court's jurisdiction.

The changes in the Bill to the jurisdiction of the Land Court ensure that the issues considered by the Court relate to the impacts of the proposed tenure on those directly impacted by the proposed mining lease application.

The Minister must still have regard to matters that will no longer require consideration by the Court when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been excluded from the Court's consideration.

As such, the proposed legislation seeks to achieve a balance between individual and community interests.

Additional rights to object are provided under the Environmental Protection Act 1994 in regard to environmental impacts for site-specific applications for an Environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object.

Particular objection rights that pertain to other Acts such as the Environment Protection and Biodiversity Conservation Act 1999 (Cwth), Aboriginal Cultural Heritage Act 2003, Water Act 2000, Nature Conservation Act 1992, Plant Protection Act 1989, Land Act 1994, would be contained in those Acts where they are relevant and necessary.

Committee comment

The committee is satisfied with the department's advice.

Request for advice:

The committee sought advice from the department, in relation new section 264(4)(e), as to what the department would consider to be reasonable land access proposals, and what matters would be taken into account by the Land Court when making a judgement in relation to reasonable land access.

DNRM advice:

> *This relates to obtaining access to a mining lease across land that is not part of the mining lease. The department would consider reasonable access to be where it minimises the impact on the underlying landholder. This means utilising the shortest practicable route from the nearest public road to the mining lease. Where a public road can be used to access the mining lease, that road should be the access road. As with all new provisions, it will be open to how the Land Court interprets these provisions as to what the Land Court sees as a fair ground for objecting to the mining lease by meeting the grounds defined in the legislation.*

Notification prior to land/property access (clauses 463, 514 and 586)

Clause 463 omits section 140A of the *Mineral Resources Act 1989* which provides that an exploration permit holder must consult with, 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.

Clause 514 omits section 74V of the *Petroleum Act 1923* whereby a tenure holder must consult with, 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.

Clause 586 omits section 74 of the *Petroleum and Gas (Production and Safety) Act 2004* whereby an authority to prospect holder must consult with, 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.

An example in the consultation process for these three (3) clauses is crossing access land (for the authority) to the extent it relates to the owners and occupiers.

Potential FLP

The former Scrutiny of Legislation Committee considered the reasonableness and fair treatment of individuals as relevant in deciding whether legislation has sufficient regard to rights and liberties of individuals. Clauses 463, 514 & 586 potentially impact on the fair treatment of individuals in that the obligation on resource authority holders to consult with landholders to access their land has been significantly diluted.

The Explanatory Notes advise that in the absence of an obligation to consult with landholders, resource authority holders will still have to comply with a land access code:

> *A number of amendments are proposed to be made to the land access provisions in this Bill. These will provide certain obligations on a resource authority holder in dealing with a landowner or occupier of private and public land, whose land may be affected by activities authorised to be carried out under the authority.*
>
> *In addition, each of the Resource Acts requires a resource authority holder to comply with the land access code.*
>
> *The current land access code states best practice guidelines for communication between the subject authority holders, and owners and occupiers of private land. The code also imposes on the holder of a subject authority mandatory conditions concerning the conduct of authorised activities on private land.*[149]

[149] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 38.

The land access code contains requirements to maintain 'good relations' with landowners/occupiers, including:

- *to liaise closely with the landholder in good faith; and*
- *advise the landholder of the holder's intentions relating to authorised activities well in advance of them being undertaken.*

The Mineral Resources Act 1989, the Petroleum Act 1923 and the Petroleum and Gas (Production and Safety) Act 2004 all provide that the holder of a subject authority must also comply with the mandatory conditions of the land access code. [150]

However, the Explanatory Notes also advise that there is no obligation to consult under the land access code:

The proposed provisions and the requirement to comply with the land access code do not impose a disparate obligation to consult with a landowner/occupier. However, to ensure compliance with all the obligations and requirements of the proposed amendments and the land access code, the resource authority holder must necessarily consult regularly with the affected landowner/occupier. [151]

Clauses 463, 514 & 586 remove the obligation on resource authority holders to consult with landholders where authorised activities are to be carried out on their property. It is arguable that the omission of these clauses negatively impacts on the ability of landholders to properly consult with resource authority holders despite the obligation to comply with the land access code.

The committee notes that the land access code is not part of the primary Act and may not be rEadily available to some landholders. Given the importance of consultation between the parties to a resource project the committee is concerned that the code should be tabled when the Bill is debated during the second reading speech.

Request for advice:

The committee sought advice from the department as to the rationale behind the omission of these clauses, and what problems associated with existing access arrangements the changes seek to address.

DNRM advice:

The omission of clauses 463, 513 and 586 are seeking to remove unnecessary regulatory requirements in line with the government's commitment to reduce red tape for the resource sectors. The rationale behind the omission of these provisions is to remove the duplication between the various application requirements and the requirements of the land access framework which was introduced in 2010.

The current land access framework establishes a statutory process with mandatory notification and negotiated consultation requirements for a resource authority holder proposing to conduct authorised activities on land within the resource authority area. Chapter 3 of the Bill maintains these extensive statutory obligations and requirements when a resource authority holder proposes to:

- *cross land to access the area of the holder's resource authority, or*
- *carry out authorised activities on land covered by a resource authority.*

[150] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 39.
[151] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 38.

These statutory obligations and requirements include, among other things:

- *if the holder of certain types of resource authority proposes to enter land to carry out authorised activities for the authority, the authority holder is obliged give a notice of entry to Each owner and occupier of private land, on whose land the activity is proposed to be carried out, 10 business days prior to the entry;*
- *to cross land to access a resource authority, its holder is required to enter into an access agreement with Each owner and occupier of the land being crossed;*
- *a requirement to compensate Each owner and occupier of private land or public land that is in the authorised area of, or is access land for, the resource authority (Each an eligible claimant) for any compensatable effect the eligible claimant suffers caused by authorised activities, carried out by the holder (called the holder's compensation liability); and*
- *for an authorised activity that is defined as an 'advanced activity', no entry to private land is permitted by the resource authority holder, unless the holder is a party, with Each owner and occupier of the land, to a 'CCA' about the advanced activity and its effects.*

When a 'CCA' is required, it must be entered into by the resource authority holder and the eligible claimant and be about:

- *how authorised activities, to the extent they relate to the eligible claimant, must be carried out; and*
- *the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.*

These statutory obligations and requirements are, in effect, requirements and obligations for a resource authority holder to consult with landowners and occupiers whose land may be affected by activities authorised by the authority.

These, combined with the mandatory conditions imposed on a resource authority by the Land Access Code, relating to the carrying out of authorised activities on land, provide a more tangible and quantifiable means of obligating resource authority holders to consult with landowners and occupiers affected by such activities.

The common provisions Act consolidates and streamlines the requirements of the resource Acts to a single land access framework that will apply to all relevant resource authority types. Therefore, these changes do not affect the rights and liberties of landholders, whose interests will continue to be protected under the land access framework proposed by the Bill.

Request for advice:

The committee sought advice from the department as to what extent is the Land Access Code mandatory and enforceable, to what extent could someone be held accountable for non-compliance, the avenues for resolving disputes and who monitors and administers compliance with the code.

DNRM advice:

The common provisions Act will work in tandem with the existing Resource Acts, linking with the corresponding compliance and enforcement provisions for rach resource authority type. The Mineral Resources Act 1989 requires exploration permit and mineral development licence holders to comply with the land access code as a mandatory condition of the resource authority.

The Petroleum and Gas (Production and Safety) Act 2004 and the Petroleum Act 1923 also have the same mandatory requirement for their exploration and production tenures.

Non-compliance action may be taken against a resource authority holder under the relevant Resource Act if the mandatory condition to comply with the Land Access Code is not complied with. The non-compliance action that may be taken includes the cancellation of the resource authority.

The government Coal Ssam Gas Compliance Unit monitors petroleum resource authority holders' compliance with land access matters, including compliance with the land access code.

For mineral (including coal) resource authority holders, an 'authorised officer' (appointed by the chief executive and often the mining registrar) can give a compliance direction to a person contravening the Mineral Resources Act 1989, to remedy the contravention.

In relation to dispute resolution, Each of the Resource Acts provides that an authorised officer can convene a conference with a resource authority holder and a landowner or occupier.

For example, a landowner or occupier may ask an authorised officer to convene a conference, if the landowner or occupier is concerned about any of the following:

- *that someone claiming to act under a resource authority, or to have entered land on the holder's instructions, is not authorised to be on the land or is not complying with a provision of the three Resource Acts, or a condition of the resource authority;*
- *activities being, or proposed to be, carried out on the land apparently under a resource authority (including when the activities are being, or are to be, carried out);*
- *the conduct on the land of someone apparently acting under a resource authority.*

The Bill also transfers the provisions of the Resource Acts, which enables a party to a CCA negotiation to call upon an authorised officer to call a conference to facilitate the negotiation of a CCA between parties.

Request for advice:

The committee sought advice from the department as to what extent the Land Access Code is transparent and readily available to all stakeholders, and the obligations for parties clear. The committee al sought advice on how the code is reviewed and or amended and which stakeholders were involved in the code's development.

DNRM advice:

A copy of the Land Access Code must be given to landholders by the resource authority holder with the first entry notice prior to entering land to undertake activities. It is also readily available on the Department of Natural Resources and Mines website and was developed in 2010, in consultation with the resource and agricultural sectors through the Land Access Working Group.

The Land Access Working Group was established as part of planning to address impacts from growth of the resources industry and help improve relationships between the agriculture and resources sectors and develop collaborative solutions to land access issues.

The working group included representatives from AgForce, Queensland Farmers' Federation (QFF), Australian Petroleum Production and Exploration Association (APPEA) and the Queensland Resources Council (QRC).

The Land Access Code is written in plain English and clearly outlines:

- *the mandatory conditions for a resource authority holder to carry out authorised resource activities; and*

- *best practice guidelines for communication between the holders of authorities and owners and occupiers of private land.*

The Land Access Code is an important part of the overall Land Access Framework.

This framework was reviewed in 2012 by the independent Land Access Review Panel, consisting of agricultural and resource industry experts. The purpose of the review was to assess the framework and its effectiveness and make recommendations on improvements that could be made.

The recommendations of the Land Access Implementation Committee, being implemented through this Bill are ultimately delivering on the recommendations of the Land Access Review Panel.

Amendments to the Land Access Code require an amendment to the regulation making the code. Changes to regulations are still subject to the Regulatory Impact Statement (RIS) System that can require detailed cost-benefit analysis of proposed changes and detailed consultation which the department would undertake with key interested parties. All regulations must be tabled in Parliament where a disallowance motion can be moved.

The department's website also contains Fact Sheets and other resource material, for landowners on whose land authorised resource activities may be carried out. The link to this is http://mines.industry.qld.gov.au/mining/706/htm.

Request for advice:

The committee sought advice from the department as to the justification for not including the Land Access Code within the Bill given its importance to ensuring fair land access arrangements between resource authority holders, land holders and land owners.

DNRM advice:

The Land Access Code is currently made by regulation. Section 24A of the Petroleum and Gas (Production and Safety) Act 2004 stipulates that a regulation may make a single code for all Resource Acts which provides for best practice guidelines for communication and mandatory conditions regarding the conduct of authorised activities, which is replicated in clause 36 of the Bill. This reflects standard legislative process for the creation of a code via regulation. This provides a greater degree of flexibility to update the Land Access Code in response to changing circumstances. The information contained within the Land Access Code is provided in a familiar, simplified format and contains both general mandatory requirements and non-mandatory guidelines which are better situated within a code. The Land Access Code has consistently received positive feedback from stakeholders, and legislating its contents risks reducing its accessibility.

As mentioned in response to the Committee's previous query, the Land Access Code is freely available to the public via the Department of Natural Resources' website.

Power to enter premises

Section 4(3) Legislative Standards Act 1992 - Does the Bill confer power to enter premises and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer?

Legacy boreholes (clause 567)

Clause 567 inserts new section 294D into the Petroleum and Gas (Production and Safety) Act 2004 specifying that an authorised person must notify land owners and land occupiers whose land will be entered to remediate a borehole. If the authorisation is because of a safety concern, written

notification must be made within 10 business days after entry is made. If the authorisation is for remediation of a legacy borehole that does not present a safety concern, land owners and land occupiers must be given written notice before entry is made.

Section 294D also provides that the written notification must state when entry was or is to be made; the purpose of the entry; that the authorised person is permitted under the Petroleum and Gas (Production and Safety) Act 2004 to enter the land without consent or a warrant; and the remediation activity carried out or proposed to be carried out.

Potential FLP issues

Section 294D allows for the entry onto land without consent or the need for a warrant. Section 4(3)(e) of the *Legislative Standards Act 1992* provides that legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.[152]

The OQPC handbook provides that this principle supports a long established rule of common law that protects the property of citizens. Power to enter premises should generally be permitted only with the occupier's consent or under a warrant issued by a judge or magistrate. Strict adherence to the principle may not be required if the premises are business premises operating under a licence or premises of a public authority. The SLC's chief concern in this context was the range of additional powers that become exercisable after entry without a warrant or consent.[153]

The OQPC Notebook states "FLPs are particularly important when powers of inspectors and similar officials are prescribed in legislation because these powers are very likely to interfere directly with the rights and liberties of individuals".[154] Residential premises should not be entered except with consent or under a warrant or in the most exceptional circumstances.[155]

The Explanatory Notes provide the following justification for the new section:

> *The provisions are considered justified as they will authorise action to be taken to resolve safety concerns of legacy boreholes. The amendments establish safety concerns as being a threat to life or property, a fire, or gas emission that exceeds the lower flammability limit. The authorisation is subject to requirements to notify the landholder and the occupier, and a requirement for consent to enter a structure or part of a structure used for residential purposes.*
>
> *A similar amendment to the Mineral Resources Act 1989 was made in 2011 to expand abandoned mines provisions including conditions for entering land. The then Scrutiny of Legislation Committee considered these provisions to breach the FLP for access. The Committee also noted, with approval, the requirement for notice of entry to the owner and occupier of the land.*[156]

New section 294D breaches the FLP that legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.

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[152] *Legislative Standards Act 1992*, section 4(3)(e).

[153] Alert Digest 2004/5, p.31, paras. 30-36; Alert Digest 2004/1, pp. 7-8, paras 49-54; Alert Digest 2003/11, pages 20-21, paras 14-19; Alert Digest 2003/9, p. 4, para. 23 and p. 31, paras 21-24; Alert Digest 2003/7, pp. 34-35, paras 24-27; cited in Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p.45.

[154] Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p. 45.

[155] Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p.46.

[156] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 40.

The committee is endeavouring to understand the circumstances in which the expanded entry provisions would foreseeably be used (ie. safety concerns) and the notice requirements including advising when the entry is to be made and the purpose of the entry.

Request for advice:

The committee sought advice from the department as to the current provisions under which resource companies access private property to deal with legacy boreholes, and any problems that have arisen with these provisions.

DNRM advice:

The existing provisions in the Mineral Resources Act 1989 would allow access to undertake such work for coal bores not on mining leases.

However these provisions do not cover all borehole types (e.g. petroleum wells or water bores) or all tenure situations. Hence the need to extend the arrangements to ensure that persons could lawfully access land to remediate unsafe bores anywhere.

Problems arise as currently both government and industry may not have a lawful means to access land and fix a legacy borehole that provides a safety concern. This could mean delays or unlawful action being undertaken.

Request for advice:

The committee sought advice from the department as to the safety concerns posed by legacy boreholes warranting urgent treatment or action that would justify the powers to enter private property without giving landowners prior notice as are proposed in the Bill.

DNRM advice:

The Bill allows for access without prior notice of entry in cases where a bore or well posing a risk to life or property, or where a bore or well is on fire or emitting gas causing a gas concentration in the surrounding air greater than the lower flammability limit.

This is to ensure that access can be undertaken immediately if required to resolve the emergency. Given the provisions relate to safety concerns which will need to be responded to in an emergency situation this is consistent with other such emergency powers in other legislation.

In practical terms the landholder is likely to be notified and liaised with prior to or as part of the access, provided they can be contacted. In the majority of cases it is likely to be the landholder who advises the department of the safety concern in the first place and so they would be notified and aware of the proposed action.

Boreholes leaking significant volumes of gas to sustain fire are not a common event. However as the gas emitted is largely methane which is odourless and colourless and is a flammable gas that can be ignited when mixed with air in the correct proportions, it provides for a risk that needs to be promptly managed.

The provisions ensure risks can be managed and the community is not exposed to hazards.

Request for advice:

The committee sought advice from the department as to whether access could be restricted to certain times of the day or days of the week to minimise impingements on the rights of landholders without unduly compromising the remedial work by resource companies.

DNRM advice:

If a genuine emergency exists then measures would need to be taken to make the site safe in the first instance. This could be at any time but may be as simple as isolating the site. In the Kogan incident the actual remediation work was only undertaken during the daylight for safety reasons. Once well control activities commenced then continuous operation may be required from a safety perspective. This would have to be assessed on a case by case basis.

Again these are infrequent events and no different to the standard exploration activities occurring elsewhere.

Request for advice:

The committee sought advice from the department as to what measures would be taken by resource companies entering private property to work on legacy boreholes to ensure that workers and vehicles do not contribute to the spread of weeds or pose other biosecurity risks to stock or crops.

DNRM advice:

The Bill requires under new section 294E that the authorised person must not cause, or contribute to, unnecessary damage to any structure or works on the land; and must take all reasonable steps to ensure the person causes as little inconvenience, and does as little other damage, as is practicable in the circumstances.

Despite an Environmental authority not being needed for activities relating to an emergency it is proposed that any authorisation would include as part of that authorisation conditions that normal good practice (e.g. Code of Conduct and typical Environmental authority conditions) required for standard exploration activities would be followed unless safety reasons necessitated otherwise.

The companies that may be authorised are those involved in exploration and production activities and conversant with weed control and biosecurity best practice.

Rights and liberties of individuals (Retrospective applicability)

Section 4(3)(g) Legislative Standards Act 1992 – Does the Bill adversely affect rights and liberties, or impose obligations, retrospectively?

Transitional regulation making power (clause 200)

Clause 200 provides for a broad ranging transitional regulation making power that will operate retrospectively to a day not Earlier than the day of commencement. Any transitional regulation will expire one yEar after the day of commencement.

Potential FLP issues

Section 4(3)(g) of the Legislative Standards Act 1992 provides that legislation should not adversely affect rights and liberties, or impose obligations retrospectively. Strong argument is required to justify an adverse effect on rights and liberties, or imposition of obligations, retrospectively.

The Explanatory Notes provide the following justification for the transitional regulation:

This provision is necessary to ensure that any transitional issues which might arise because of the introduction of the new framework, under which the new common provisions Act will operate alongside the existing Resource Acts, can be addressed in a timely manner through regulation. Although this provision may be considered a departure from the FLP, its operation is limited. Regulations may only be made in relation to matters for which it is necessary or convenient to assist the transition where the Act does not make provision or

enough provision. In addition, a one year sunset clause applies to the provision and any transitional regulations made pursuant to the transitional regulation-making power.[157]

The former SLC also considered that it was an inappropriate delegation to provide that a regulation may be made about any matter of a savings, transitional or validating nature 'for which this part does not make provision or enough provision' because this anticipates that the Bill may be inadequate and that a matter which otherwise would have been of sufficient importance to be dealt with in the Act will now be dealt with by regulation.

Given the retrospective nature of these transitional regulations, the committee is seeking to understand the circumstances in which the department anticipates a transitional regulation may be used, and whether this would be reasonable.

Request for advice:

The committee sought advice from the department to clarify the circumstances under which the department anticipates that a transitional regulation may be used.

DNRM advice:

This power is intended to apply where the Common Provisions Act, through the modernisation of the five Resource Acts into a single piece of legislation, may not have provided provision or enough provision to assist in this transition. The undertaking to combine five Acts into one is not straightforward and it may be expected that unforeseen issues may not be realised until after commencement. Such a power is necessary to ensure the regulation of the resources industry continues to be effectively managed if a situation arises until appropriate legislative amendments can be proposed.

To assist with implementing the common legislative framework, a regulation may have limited retrospective operation to the date of commencement. The transitional regulation making power and any transitional regulation made will expire one year after commencement.

Transitional regulation-making powers similar to that proposed in clause 200 are not uncommon in the Queensland statute book for similar purposes, particularly to assist with the transition from one Act to another. Some examples include section 108 of the Regional Planning Interests Act 2014 that has retrospective operation to the date of commencement and subsequent expiry, as does section 113 of the Education (Queensland Curriculum and Assessment Authority) Act 2014, section 9A of the Health Practitioner Regulation National Law Act 2009, sections 871, 960, 971, 990 of the Sustainable Planning Act 2009, sections 140 and 141A of the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 and section 205 of the Nature Conservation Act 1992.

Committee comment

The committee is satisfied with the department's advice.

Clear and precise

Section 4(3)(k) Legislative Standards Act 1992 - Is the Bill unambiguous and drafted in a sufficiently clear and precise way?

[157] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 41.

Access to private land (clauses 40 and 43)

Clause 40(1)(c) provides that an entry notice in relation to an entry onto private land to carry out an authorised activity does not apply if the Land Court is considering an application relating to the land under section 94.

Similarly, section 43(1)(d) provides that a person must not enter private land to carry out an advanced activity for a resource authority unless Each owner and occupier of the land is an applicant or respondent to an application relating to land being considered by the Land Court under section 94.

Potential FLP issues

Legislation should be unambiguous and drafted in a sufficiently clear and precise way.[158] Plain English is recognised as the best approach to the use of language in legislation, with the objective to produce a law that is both easily understood and legally effective to achieve the desired policy objectives.[159]

The use of the terms 'considered' and 'considering' in clauses 40 and 43 in relation to an application filed in the Land Court and their effect on entry onto private land, does not clearly state at what point a matter is deemed to be considered by the court. It may cause confusion for the parties to a resource authority as to when they may or may not enter private land upon the filing of an application in the Land Court.

Request for advice:

The committee sought advice from the department to clarify what actions by the Land Court in relation a matter would constitute 'consideration'; for example, would the Court's receipt of an application by one party to hear a matter constitute 'consideration' for the purposes of the Bill, or would consideration only commence at the first hearing of the matter.

The committee also sought advice from the department as to whether clauses 40(1)(c) and 43(1)(d) could be redrafted to improve their application to matters that are before the Land Court.

DNRM advice:

> *There is no intent to change the CCA exemption where a Land Court application has been lodged. The terminology used is a result of the drafting style adopted by the Bill in consolidating the land access provisions from across the Resource Acts. While the clause specifically mentions that an application has been made, the department acknowledges that the addition of the word 'considering' introduces some uncertainty.*
>
> *The department is considering amending the provisions.*

Oral agreement to access private land (clause 47)

Clause 47 provides that a resource authority holder may exercise an access right over access land if an access agreement, agreed orally or in writing, contains the following:

- if exercising the rights is likely to have a permanent impact on access land - Each owner and occupier of the land;
- if exercising the rights is unlikely to have a permanent impact on access land - Each occupier of the land.

Potential FLP issues

An oral agreement may have repercussions for successors in title who will be bound by a non-written access agreement pursuant to clause 79, in circumstances where it may be unclear what was actually

[158] *Legislative Standards Act 1992*, section 4(3)(k).
[159] Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, pp. 87-8.

agreed upon. An oral access agreement is also inconsistent with section 11 of the Property Law Act 1974 which requires instruments to be in writing. It is also unclear from the Explanatory Notes as to the rationale behind providing for an oral access agreement in circumstances where provisions allowing for CCAs must be in writing.

Request for advice:

The committee sought advice from the department as to the rationale for including provisions in clause 47 for oral access agreements, and the background to the inclusion of these agreements in the Bill.

DNRM advice:

The provision for oral agreements for access to land that is outside the area of the resource authority has been migrated across from the existing Resource Acts. The 'off-tenure' access framework merely creates a right to enter and cross the land, and undertake certain activities to assist the entry and crossing of the land, to gain entry to the resource authority area. The types of activities that may be required or undertaken on access land include, for example, the opening of a gate or building/upgrading an access track. These access arrangements may vary from a one-off access to a regular or on-going arrangement. Resource activities permitted under the resources authority cannot be undertaken on access land.

The ability for the agreement to be made orally or in writing ensures that there is sufficient flexibility in the framework to accommodate different access scenarios. The framework allows the parties to decide how to record their agreement based on the nature and duration of the activities required for access.

To amend the requirements to mandate all agreements be in writing is likely to introduce unnecessary regulatory burden for both landholders and industry.

For mining production authorities, land needed to access a proposed mine site is included in the authorised area (hence their exclusion from the operation of these provisions). Other types of resource authorities are likely to be large in comparison to a mine. In many cases, there is likely to be a public road available where a resource authority holder can directly and efficiently access the authorised area for the authority.

In other cases, where there is a need for ongoing access arrangements, the department considers that the majority of landholders and resource authority holders exercise appropriate judgment to determine whether a written agreement is appropriate.

Committee comment

The committee is satisfied with the department's advice.

Request for advice:

The committee sought advice from the department to clarify whether there are legal precedents for the recognition of oral agreements in respect of property, tenure or other financial dealings.

DNRM advice:

There is an extensive body of contract law precedent that deal with oral agreements. The department was able to identify a number of cases that dealt with oral agreements relating to property and financial dealings. However a general search did not disclose any cases that specifically referenced "tenure" as the subject matter of an oral contract case.

Request for advice:

The committee sought advice from the department as to whether binding oral agreements are consistent with the *Property Law Act 1974* and CCAs provided for in the Bill, which must be in writing.

DNRM advice:

> *Section 11 of the Property Law Act 1974 requires an interest in land to be in writing. An oral access agreement is not inconsistent with the Property Law Act 1974, as these agreements do not create an interest in the land. An access agreement merely creates a right to enter and cross the land, and undertake certain activities to assist that entry and crossing, to gain entry to the tenure area.*
>
> *Oral access agreements are also not inconsistent with the conduct and compensation (CCA) requirements. Access agreements are a separate instrument from a CCA. A CCA is required for advanced activities (such as drilling and other Earthworks), that are to be conducted on the land within the area of the resource authority. A CCA must be entered between Each owner and occupier of the land before the advanced activities can be undertaken on the land. Crossing land within a resource authority area, using an existing access track is considered to be a preliminary activity and does not require a CCA.*

Request for advice:

The committee sought advice from the department as to how it envisages that disagreements about oral access agreements would be resolved, including by subsequent landholders who are bound by oral agreements entered into by previous owners.

DNRM advice:

> *There are a number of avenues available to parties to a contractual disagreement to have their matter resolved. These include conferences held by departmental officers, alternative dispute resolution processes such as mediation, as well as seeking resolution through the courts. As the Bill provides a statutory process for resolving disputes over an access agreement, these avenues would continue to be available to the parties of an access agreement.*
>
> *Evidentiary aides that may be utilised in these cases include affidavit statements, oral statements and testimony and past actions, such as regular use of the land as an access route by the resource authority holder.*

Request for advice:

The committee sought advice from the department as to how an oral access agreement would work in practice if a party to an agreement suffers incapacity or dies after the agreement has been made.

DNRM advice:

> *Where an oral agreement has been entered and is binding on successors, the surviving party to that agreement has a right of claim against the estate and/or successors of the incapacitated and/or deceased party, to continue accessing the land as agreed with the original landholder.*
>
> *If that claim results in a dispute between the resource authority holder and the estate, inheritor or representative of the deceased or incapacitated landholder, a number of avenues are available to parties for resolution. These avenues include alternative dispute resolution processes such as mediation, as well as seeking resolution through the courts.*

Should the matter proceed to Court, the rules of the Court and evidentiary protocols would apply.

Evidentiary aides that may be utilised in these cases include affidavit statements, oral statements and testimony and past actions, such as regular use of the land as an access route by the resource authority holder.

Oral agreement binding on all parties (clauses 79 and 93)

Clause 79 provides that an access agreement binds all parties to it and Each of their personal representatives, successors in title and assigns.

Clause 93(1)(c) uses slightly different terminology. It provides that a CCA, or decision of the Land Court about the compensation liability of a resource authority holder, is binding on the personal representatives, successors and assigns of the eligible claimant and the resource authority holder. Notably it does not contain 'in title' after 'successors'.

Pursuant to subdivision 3, clause 90 provides that a resource authority holder that is a party to a compensation or opt-out agreement must, within 28 days after entering into agreement, give the registrar (of titles) notice of the agreement in the appropriate form.

Potential FLP issues

Clause 79 uses the specific term 'successors in title' in relation to an access agreement, as opposed to the term 'successors' used in clause 93(1)(c) in relation to a CCA, which on its literal meaning may have a wider interpretation.

Request for advice:

The committee sought advice from the department as to whether section 93(1)(c) could be redrafted to be more specific in its meaning. It appears that the intention of section 93 is to bind successors in title, given that compensation and opt-out agreements must be filed with the registrar of titles.

DNRM advice:

The terminology used for clauses 79 and 93(1)(c) have been migrated across from the existing Resource Acts. The department is aware of the inconsistency and is considering amending the clauses.

Agreement to alternative dispute resolution (clause 86)

Clause 86(2) contains the same wording as section 537A of the *Petroleum and Gas (Production and Safety) Act 2004* and says:

*Either party may, by written 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 the other party to agree to an alternative dispute resolution process (an **ADR**) to negotiate a conduct and compensation agreement.*

Pursuant to clause 86(3) an ADR process may include arbitration, conciliation, mediation or negotiation. This mirrors section 537A(4) of the *Petroleum and Gas (Production and Safety) Act 2004*.

Potential FLP issue

Pursuant to clause 86 a party may call the other party to agree to an ADR process. However, the clause does not require the other party to expressly agree to the ADR process, nor does it clarify what happens should a party not agree to an ADR process.

In the Queensland Court of Appeal case of *Australia Pacific LNG Pty Ltd v Golden & Ors*[160] the applicant sought an interlocutory injunction to restrain the respondents and the arbitrator from proceeding with arbitration, the ADR process nominated on the election notice pursuant to section 537A of the *Petroleum and Gas (Production and Safety) Act 2004*. The applicant asserted that as it had not agreed to arbitration as the nominated ADR process, it could not be compelled to attend the proposed arbitration.

The court granted the injunction describing the applicant's position as 'fairly arguable'. It noted that the *Petroleum and Gas (Production and Safety) Act 2004* required the parties to seek a negotiated agreement through ADR, and if this failed the Land Court would determine compensation. Further, the court noted that the nominated ADR process (arbitration) was not directed towards facilitating negotiations between the parties but could instead result in a quasi-judicial determination by an arbitrator. This was not the intent of the provision.[161]

Clauses 86 (2) & (3) mirror the existing wording in the *Petroleum and Gas (Production and Safety) Act 2004*.

It would appear that section 86(2) contemplates the parties agreeing to an ADR process. However, as in the case of *Australia Pacific LNG Pty Ltd v Golden & Ors* the provision does not clarify what will happen if a party does not agree to an ADR process as specified in an election notice.

Request for advice:

The committee sought advice from the department as to the options available to parties if one party is served with an election notice but does not agree to participate in the nominated ADR process, particularly if the ADR process nominated is arbitration.

DNRM advice:

> *The Bill has migrated the current ADR and conferencing requirements from the existing Resource Acts. The policy intent of the land access framework is to facilitate the relationship between resource authority holders and the owners and occupiers of the land within the resource authority area. The framework establishes processes considered appropriate to enable the parties to mutually agree to the terms and conditions for their CCA, before escalating to an assisted process and then the Land Court. To ensure the parties have flexibility in the process, the Bill does not over-regulate the process by prescribing every step to be taken by the parties.*
>
> *Where a party has been called upon, but does not agree to partake in the nominated ADR process, they may via return correspondence nominate an alternative form of ADR or call upon a conference to be conducted. The department will only become involved in this process where a conference has been called.*
>
> *The department is aware of the recent Queensland Court of Appeal case Australia Pacific LNG Pty Ltd v Golden & Ors [2013] QCA 366, where an application for an injunction was made against an arbitration to be conducted under section 537A(4) of the Petroleum and Gas (Production and Safety) Act 2004, which has the same provisions as the Bill. As the parties signed a CCA, after the granting of the injunction, the Court of Appeal was not required to make a determination regarding interpretation and construction of the section.*
>
> *The department is considering the issues and potential options that may be required to clarify the application of the provisions and if a legislative amendment is required, this will be proposed in a future Bill.*

[160] [2013] QCA 2013.
[161] [2013] QCA 2013 at 3.

Committee comment

The committee is satisfied with the department's advice.

Institution of Parliament (Amendment of an Act only by another Act)

Section 4(4)(c) *Legislative Standards Act 1992* - Does the Bill allow or authorise the amendment of an Act only by another Act?

There are 77 clauses in the Bill allowing for various types of matters to be prescribed by regulation. The clauses which allow for regulations are the following: 16-19, 25-26, 32, 36, 39-40, 43, 62, 65, 67-68, 99, 118-120, 122, 124, 126-127, 135, 137-138, 147, 153-157, 160-162, 165, 168, 177-179, 181-187, 191-192, 199-200, 231, 247, 274, 296-297, 305, 324-325, 346, 356, 381-383, 389, 416, 474, 476, 486, 503-504, 526, 565-567, 584, 594.

The Explanatory Notes acknowledge that the aforementioned clauses may be perceived as an inappropriate delegation of legislative power and classed as Henry VIII provisions pursuant to section 4(4)(c) of the *Legislative Standards Act 1992*. The Explanatory Notes advise:

> *The Bill in providing for the Common Provisions Act, generally adopts a less prescriptive and outcome-based drafting style. This has resulted in many requirements that were previously provided for in the primary legislation, to now be prescribed in subordinate legislation. This may be perceived as an inappropriate delegation of legislative power and to some extent a departure from the FLP under section 4(4)(c) of the Legislative Standards Act 1992.*
>
> *The existing level of detail and rigidity does not allow government to adequately respond to the changing conditions within the resources sector. The drafting style adopted in the common provisions Act recognises the dynamic environment within which the resources sector operates by including detailed technical and procedural matters in subordinate legislation.*[162]

Examples of the use of regulations in the Bill:

- *Clause 16 – What is a dealing*
  Clause 16 provides that a 'dealing' in relation to a resource activity is any transaction or arrangement that causes the creation, variation, transfer or extinguishment of an interest in the resource authority or another transaction or arrangement, prescribed by regulation. It may be argued that in order to provide certainty, the definition of a 'dealing' should be encapsulated in the primary Act and not be subject to change by a regulation.

- *Clause 99 - Review of compensation by Land Court*
  The reliance on regulations can also be seen at clause 99 – Review of compensation by Land Court. Clause 99(6)(a) provides that in making a decision, the Land Court must have regard to 'all criteria prescribed by regulation applying for the compensation'. In this instance a court may reasonably expect that the criteria for making an important decision on a matter such as compensation would be set out in the primary legislation and not a regulation.

- *Clause 162 - Reconciliation payments and replacement gas*
  Clause 162 provides that the payment a petroleum lease holder is liable to give a mine lease holder (a reconciliation payment) for the coal seam gas recovered, must be calculated in the way consistent with the principles prescribed by regulation. It may be argued that the formula for how a reconciliation payment is to be calculated should be in the primary Act

[162] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 40.

and not a regulation, in order to provide certainty in the calculation process for the parties involved.

Potential FLP issues

A Bill should only authorise the amendment of an Act by another Act.[163] A clause in an Act, which enables the Act to be expressly or impliedly amended by subordinate legislation or executive action is defined as a Henry VIII clause. The SLC's approach to Henry VIII clauses was that if an Act was purported to be amended by a statutory instrument (other than an Act) in circumstances that were not justified, the SCL would voice its opposition by requesting that Parliament disallow the part of the instrument that breaches the FLP requiring legislation to have sufficient regard for the institution of Parliament.[164] The SLC considered the use of Henry VIII clauses in the following limited circumstances might be acceptable:

- To facilitate immediate executive action;
- To facilitate the effective application of innovative legislation;
- To facilitate transitional arrangements;
- To facilitate the application of national scheme legislation.[165]

The OQPC Notebook explains that the existence of these circumstances does not automatically justify the use of Henry VIII clauses, and, if the Henry VIII clause does not fall within any of the above situations, the SLC classified the clause as 'generally objectionable'.[166]

Request for advice:

The committee notes that the Bill has 77 separate clauses whereby activities may be prescribed by regulation. The committee sought advice from the department, for Each affected clause, as to whether it is appropriate for the matters to be prescribed by regulation in the circumstances and the rationale behind using so many regulations to achieve the Bill's objectives. The committee also sought advice from the department as to when it is likely that the regulations will come into effect, should the Bill be passed.

DNRM advice:

The approach taken in the Bill should be considered in the context of the existing Resource Acts currently being extremely prescriptive and inflexible which does not allow the government to be responsive to the dynamic environment within which the resource industry operates. It is important to get this balance right to ensure crucial investment is not lost to other jurisdictions with simplified frameworks.

The department's Blueprint (available on its website, http://www.dnrm.qld.gov.au/our-department/about-us/our-blueprint p.22) contains the strategy on how the department is to operate and identifies as a key enabler of reform—the modernisation of our regulatory framework through making sure legislation is practical and Easy to administer and removing prescriptive regulations to enable more flexibility for businesses, landholders and the community.

Any new regulations or amendments to existing regulations are still subject to the Regulatory Impact Statement (RIS) System that can require detailed cost-benefit analysis of

[163] *Legislative Standards Act 1992*, section 4(4)(c).
[164] Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p.159.
[165] Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p.159.
[166] Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p.159; Alert Digest 2006/10, page 6, paras 21-24; Alert Digest 2001/8, p.28, para 31.

proposed changes and detailed consultation with stakeholders. All regulations must be tabled in Parliament where a disallowance motion can be moved.

The department considers the regulation-making powers in clauses 25, 36, 39, 177, 179, 181, 182, 184, 185-187, 191,192, 199, 274, 305, 346, 486 and 526 of the Bill as an appropriate delegation of legislative power as these include basic application, lodgement, and notice requirements including fees payable for applications that have traditionally been delegated to subordinate legislation.

Clauses 17, 18, 26, 62, 99, 178, 183 and 389 of the Bill are considered an appropriate delegation of legislative power as the purpose of the common provisions Act is to provide a simplified, central piece of legislation for resources tenure administration in Queensland. As this legislation will cover four different resource industries, there will likely be cases where a resource specific outcome or requirement may need to be specified. These clauses propose further delegation of particular aspects of the current legislation to subordinate legislation to reduce legislative complexity to achieve grEater balanced use of subordinate legislation in comparison to the existing Acts. This includes such matters as types of transactions needed to be registered and notifiable road use thresholds.

Under the Overlapping Tenure Framework, the majority of identified clauses provide for details such as notice and information requirements, associated requirements for the lodging of applications or forms, criteria to be considered in decision making, and other prescribed matters to be addressed in documents and agreements between resource authority holders. It is considered that it is an appropriate delegation of legislative power as the purpose of the framework is to provide a legislative default which coal and coal seam gas authority holders can use to come to mutually beneficial outcomes on the development of the State's resources whilst providing flexibility for industries to negotiate arrangements as an alternative to particular legislative requirements (excluding mandatory requirements relating to matters such as notice periods and safety and health).

Clause 162 provides that the payment a petroleum lease holder is liable to give a mine lease holder (a reconciliation payment) for the coal seam gas recovered, must be calculated in the way consistent with the principles prescribed by regulation. It may be argued that the formula for how a reconciliation payment is to be calculated should be in the primary Act and not a regulation, in order to provide certainty in the calculation process for the parties involved.

The industry White Paper entitled 'Maximising Utilisation of Queensland's Coal and Coal Seam Gas Resources – A New Approach to Overlapping Tenure in Queensland' (White Paper) states that the precise methodology of the reconciliation payment would be a matter for development by technical experts.

Like other compensation matters, the department views the methodology for reconciliation payments as a commercial matter between resource parties. Therefore, to enable flexibility within the framework to address specific scenarios, a formula for how a reconciliation payment is to be calculated has been omitted from the primary Act.

Instead, it was the department's intent that calculating reconciliation payment must be calculated in accordance with principles set down in regulation. The department will continue to work closely with the Queensland Resources Council and the Australian Petroleum Production and Exploration Association and other key stakeholders during the development of the regulation to ensure the regulation reflects the intent of the White Paper and remains relevant.

For clauses 565 - 567, plugging and abandoning requirements are already prescribed in legislation. These are technical details well suited to a regulation rather than an Act. The existing regulations will be referenced and required to be followed where practical to do so.

A limited number of clauses, as provided below, were also identified as possible Henry VIII clauses.

Clause 19 (see below).

Clauses 16, 43 and 65 provide greater flexibility in the practical implementation of the provisions by allowing for definitions to be clarified, or exemptions to be prescribed, by regulation. For example, it is intended that under clause 65 a regulation will prescribe a coordinated project under the State Development and Public Works Organisation Act 1971 to maintain the status quo.

Clauses 32, 67 and 68 enable a regulation to provide exceptions to the definitions of associated agreement, restricted land distances and exemptions, and further refinement of what is restricted land. These clauses could broadly be interpreted as potential Henry VIII clauses, however the department considers that these clauses are appropriate to facilitate the purposes of the Bill in avoiding drafting prescriptive, rigid and detailed clauses that attempt to capture and envisage all future potential circumstances. For restricted land, the use of regulations is to allow for flexibility to adapt to circumstances as they evolve, particularly as the proposed framework would apply to future applications from the petroleum and gas sector for the first time.

Clauses 40 enables a regulation to provide an exception to an obligation to give an entry notice to owners and occupiers, and clause 178 enables a regulation to prescribe an application that has no effect. These clauses could also be broadly interpreted as potential Henry VIII clauses, however the department considers that these clauses are appropriate to facilitate the purposes of the Bill in avoiding prescriptive, rigid and detailed legislation.

Clause 200 provides the legislative ability to facilitate the transition of multiple Resource Acts to a single, common provisions Act; a complex legislative consolidation which may require any unforeseen issues to be addressed after commencement. Such a regulation-making power is commonly used in Acts transitioning legislative schemes and is considered appropriate.

It is expected that the various regulations will come into effect late 2014/Early 2015 at the same time as commencement of the Act, if passed.

Request for advice:

The committee sought assurances from the department that such a heavy reliance on department-made law is an appropriate delegation of legislative power for such an important and significant Bill.

DNRM advice:

This important Bill is about finding the right balance between the use of subordinate legislation and primary legislation to develop a simplified and flexible regulatory framework to support economic development in Queensland. The proposed regulation-making powers need to be considered in the context of the existing resources legislation that is lengthy, complex and rigid. Subordinate legislation is made by the Governor-in-Council, not by the department, and is subject to a disallowance motion when tabled in Parliament and is also subject to the Regulatory Impact Statement (RIS) System.

Application for Minister's approval to register dealing (clause 19)

Clause 19 provides who may apply to the Minister for approval to register a prescribed dealing and for the Minister to refuse or grant approval, with or without conditions. It also provides for another entity to make the application, with the consent of the resource authority holder.

However, clause 19(2) provides that if a prescribed dealing is required to be executed because of the operation of a law, a regulation may change the ordinary rule by prescribing who may or must make the application and the period within which the application must be made. For example, the transfer of an interest in a resource authority because of the death of the resource authority holder. In relation to clause 19, the Explanatory Notes provide the following justification:

> *While the provision breaches an FLP by effectively amending the application of the Act by a regulation contrary to the Legislative Standards Act 1992, section 4(4)(c), this is considered justified as it only applies in situations where it is not practicable for the holder to apply or to give consent (e.g. they have died, or no longer exist) and avoids burdening the legislation with several provisions to address these procedural matters. The changes are also related to processes governed under other legislation where powers and procedures have been established e.g. executor of a deceased estate under the Succession Act 1981. Therefore, while the regulation is effectively amending the application of the Act, it is as a result of processes established under other Acts.*[167]

Request for advice:

The committee sought examples from the department of where the department anticipates a regulation may be used in relation to clauses 19. The committee is endeavouring to understand whether the potential FLP breach is warranted.

DNRM advice:

> *The regulation provided for in clause 19(2) of the Bill is intended to identify a number of relationships that would allow a person other than the resource holder or a person with the resource holder's consent, to apply to the Minister to register a prescribed dealing such as a transfer.*
>
> *The department considers this potential breach to be warranted, particularly when viewed against the current provision in each of the Resource Acts, which provides little or no clarity on who the provision applies to. Section 571(1)(c) of the Petroleum and Gas (Production and Safety) Act 2004 provides that a transfer does not require assessment if it is a transfer "by operation of law". The Mineral Resources Act 1989 adopts the same terminology for each of the mining resource authority types and further defines some of relationships considered to fall within the "operation of law"—such as a mortgagee exercising their right of sale—through the Mineral Resources Regulation 2013.*
>
> *The types of relationships that are envisaged by the policy intent of the provision are established under Acts, such as the Succession Act 1981, Property Law Act 1974, Corporations Act 2001 (Cwlth) or the Bankruptcy Act 1966 (Cwlth).*
>
> *The use of the regulations to identify the range of relationships that are considered to be transfers "by operation of law" adds clarity and certainty to the application of this requirement. The relationships that have been flagged for inclusion in the regulation have been identified through the on-going operation of the Resource Acts. The use of a regulation will enable relationships to be added or amended as the establishing laws are amended over time and as additional circumstances are identified.*
>
> *The situations and relationships that are envisaged to be incorporated into the regulation should the Bill be passed, include:*
>
> - *Death of owner (other than joint tenant)—If an individual is a holder (not as a joint tenant) the executor, administrator or public trustee administering the holder's estate*

[167] Mineral and Energy Resources (Common Provisions) Bill 2014, Explanatory Notes, p. 42.

must apply to the Minister for approval to register any prescribed dealing with the resource authority or share as a consequence of the individual's death.

- *Sale by mortgagee—If the mortgagee of a resource authority or share of a resource authority is to exercise the mortgagee's power of sale, the mortgagee must apply to the Minister for approval to register the transfer of the resource authority or share as a consequence of the sale.*
- *Administration, receivership and liquidation of a corporation—If a corporation is the holder of a resource authority or of a share in an resource authority and the corporation is placed in administration, receivership or liquidation, the administrator, receiver or liquidator must apply to the Minister for approval to register any dealing with the resource authority or share as a consequence of the corporation being placed in administration, receivership or liquidation.*
- *Bankruptcy—If an individual is the holder of a resource authority or of a share in the resource authority, and the individual is declared bankrupt, the trustee administering the bankruptcy must apply to the Minister for approval to register any dealing with the resource authority or share as a consequence of the bankruptcy.*
- *Compulsory sale—If a resource authority or share in a resource authority must be transferred as a consequence of a court order, if the holder is unable to apply, the bailiff or sheriff must apply to the Minister for approval to register the transfer of the resource authority or share in the resource authority.*

Appendix A – List of submitters

1 - Australian Petroleum Production and Exploration Association
2 - Queensland Law Society
3 - Queensland Resources Council
3 - Queensland Resources Council (Supplementary Submission)
4 - Confidential
5 - Environmental Defenders Office Qld
5 - Environmental Defenders Office Qld (Supplementary Submission)
6 - Cotton Australia
6 - Cotton Australia (Supplementary Submission)
7 - The Wilderness Society (Qld)
8 - QGC Pty Ltd
9 - Confidential
10 - Cape York Land Council Aboriginal Corporation
11 - QCoal Group
12 - Queensland Murray-Darling Committee Inc.
13 - Association of Mining and Exploration Companies
14 - Ergon Energy
15 - Shine Lawyers
16 - Wildlife Preservation Society of Queensland - Logan
17 - Queensland Conservation
18 - Mr Graham Slaughter
18 - Mr Graham Slaughter (Supplementary Submission)
19 - Donnie Harris Law
20 - Ms Symone Male
21 - Mr Andrew Rea
22 - Mr Jonathan Peter
23 - Ms Juanita Johnston
24 - Mr Wayne Reid
25 - Mr Rick Kilpatrick
26 - Ms Sylvia Leviston
27 - Ms Robina Cahill
28 - Shannon Krebs
29 - Mr Anthony Nelson
30 - Mr Chris Dalton
31 - Ms Lorraine Parkin
32 - Ms Sonay Duus
33 - Mr Mitchell Bright
34 - Mr Ralph Prestage
35 - Ms Caroline Rentel
36 - Mr Clancy Morrison-Van Velsen
37 - Mr Howard Bowles
38 - Wildlife Preservation Society of Queensland - Bundaberg
39 - Ms Gail Hamilton
40 - Mr Patrick Deprez
41 - Ms Debbie McIntyre
42 - Dorte Planert
43 - Mr Paul Freeman
44 - Ms Gemma Schuch
45 - Mr Colin Stewart
46 - Ms Jacinta Tonkin

47 - Dr Valerie Lewis
48 - Ms Janine Wright
49 - Mr James Pauly
50 - Ms Angela Shaw
51 - Ms Hazel Duell
52 - Ms Leonie Lyall
53 - Ms Julie Emery
54 - Ms Lynne Turpie
55 - Ms Jeanette Wehl
56 - Mr Justin Bartlett
57 - Mr Tim Salmon
58 - Russell, Lyn and Doug Bennie
59 - Jindal Steel and Power (Australia) Pty Ltd
60 - Mr Trevor Berrill
61 - Ms Robyn Peters
62 - Ms Helen Day
63 - Rod & Pam Elkington
64 - Ms Sandra Dibbs
65 - Ms Nicola Provan
66 - Mr John Cook
67 - Ms Jane Jones
68 - Mr Russell Reinhardt
69 - Maynard Heap
70 - Mr Geoff OConnell
71 - Lock The Gate Alliance
72 - Jaala Stott
73 - Cowan and Helen Keys
74 - Ms Maureen Cooper
75 - Coal Free Wide Bay Burnett
76 - Mr Brian Linforth & Ms Sue Crickitt
77 - Ms Jayn Hobba
78 - Ms Rebecca Bell
79 - Ray and Pam Howe
80 - Ms Anna Hitchcock
81 - Mr Dylan Graves
82 - Eion and Anne Anderson
83 - Mr Peter Forrest
84 - Peter & Henny Ralph
85 - Ian and Denice Campbell
86 - Southern Downs Protection Group
87 - Ms Jane Cajdler
88 - Dr Jan Aldenhoven
89 - Wildlife Preservation Society of Queensland - Sunshine Coast & Hinterland Inc.
90 - Bruce and Annette Currie
91 - Ms Caitlin Wollaston
92 - Ms Jackie Cooper
93 - M. E. Forrest
94 - Sustainability Showcase
95 - Wide Bay Burnett Environment Council
96 - Mr Mark Driscoll
97 - Mr Steven Ryan
98 - Ms Janette McCann
99 - Mrs Diane Douglas

100 - Mr Ross Ellis
101 - Ms Bronwyn Marsh
102 - Ms Janice Watson
103 - Mr David Loft
104 - Mr George Depenning
105 - Mr Justin Leckner
106 - Ms Thelma Stringer
107 - Ms Elizabeth Kelly
108 - Ian Clark
109 - Ms Bethlea Bell
110 - Mr Gary Dwyer
111 - Mr Bill Foster
112 - Ms Liz Humphries
113 - Mr David McWilliam
114 - Mr Michael Flaherty
115 - Ms Julie Tait
116 - Mel Bowman-Finn
117 - Lesley Edwards
118 - Anne and Lawrie Martin
119 - Ms Tricia Agar
120 - Mrs Lyla Lobwein
121 - Mr David Lobwein
122 - Luke and Jean Daglish
123 - David and Deborah Edwards
124 - Ms Kaili Leadbeatter
125 - Mrs Janice Smith
126 - Ms Peta Terry
127 - Ms Charlene Grainger
128 - Ms Jennifer Farrar
129 - Ms Megan Perrett
130 - Ms Jenny Chester
131 - Colin & Sue Reynolds
132 - Brian & Judy Pownall
133 - Ms Tracey Larkin
134 - Mr Allan Sharpe
135 - Ms Marilyn Livingstone
136 - Ms Merula Dowding
137 - Ms Giselle Burton
138 - Ms Rebecca Hilder
139 - Mr John Stannard
140 - Protect the Bush Alliance
141 - National Council of Women of Queensland Inc.
142 - Mr Vincent Zaniewski
143 - Paul & Janeice Anderson
144 - Mr Eric Budgen
145 - Wildlife Preservation Society of Queensland - Upper Dawson Branch
146 - Ms Patricia Cook
147 - Mr Max Scholefield
148 - South Endeavour Trust
149 - Ms Monique Filet
150 - Mrs Margaret Hilder
151 - Ms Audrey Naismith
152 - Ms Eloise Telford

153 - Ms Sarah de Wit
154 - Ms Elisabeth Hindmarsh
155 - Ms Penelope Allman-Payne
156 - Mr Peter Faulkner
157 - Confidential
158 - Mr Ralph Valler
159 - Mr Andrew Francis Brigden
160 - Ms Eleanor Barrett
161 - Hillel Weintraub
162 - Ms Claudia Stephenson
163 - Ms Astrida Donaldson
164 - Mr Jonathan Hoch
165 - Bill Dorney and Debbie Mitchell
166 - Mr Herbert Bruggemann
167 - Peter & Julia Anderson
168 - Friends of Stradbroke Island Association
169 - Oakey Coal Action Alliance
170 - Mr Tom Crothers
171 - Ms Aileen Harrison
172 - Ms Susan Oxley
173 - Basin Sustainability Alliance
174 - Neville & Carmel Stiller
175 - Friends of the Earth Brisbane
176 - Places You Love Alliance
177 - Society for Growing Australian Plants (Queensland Region) Inc.
178 - Mrs Merilyn Plant
179 - Confidential
180 - Mr Col Thompson
181 - Marian & Vince Cerqui
182 - Ms Bronwyn Marsh
183 - Mr Ian McDougall
184 - Ms Marial Saren Starbridge
185 - Ms Edith McPhee
186 - Mary River Catchment Coordination Association Inc
187 - Goomboorian Community Action Group
188 - Mr David Arthur
189 - Ms Jude Garlick
190 - Ms Bernice Thompson
191 - Landholder Services Pty Ltd
192 - North Queensland Land Council
193 - Ms Alexandra Mercer
194 - Ms Carol Booth
195 - Friends of Felton
196 - Mr Ian Wilson
197 - Ms Margaret Doyle
198 - Rosewood District Protection Organisation Inc.
199 - Mr John Gerard Erbacher
200 - Ms Susan Beetson & Jeff Hawley
201 - Mr Arnold George Rieck
202 - Property Rights Australia
203 - Mackay Conservation Group
204 - DA and KA Yeigh
205 - Ms Sandy Bratt

206 – Confidential
207 - Paula & Ken Outzen
208 - Kenneth William & Rita Claire Varidel
209 - Catalyst for Transition
210 - Confidential
211 - Burnett Holdings (NQ) Pty Ltd
212 - Origin Energy
213 - Bruce and Wendy Derrick
214 - Ms Joanna Kesteven
215 - W.R. Easton & C.A. Bettridge
216 - Ms Cherie Dunshea
217 - Arrow Energy Pty Ltd
218 - AgForce Queensland
219 - Mrs Fiona Hayward
220 - Ms Nicole Read
221 - Ms Veronica Baas
222 - Ian William Scholer
223 - Mr Jim Stewart
224 - Ms Lynette Singleton
225 - Mr Kelvin Sypher
226 - Ms Grace O'Brien
227 - Mr Wade Bradley
228 - Ms Haley Burgess
229 - Ms Luana Storni
230 - Ms Harsha Prabhu
231 - Mr Peter Taylor
232 - Mr Jacob van Noord
233 - Ms Toni Holland
234 - Ms Karen Thompson
235 - Ms Kathy Barry
236 - Mr Simon Tickler
237 - Karman Lippitt
238 - Mr Jim Stewart
239 - Mr Bruce Mouland
240 - Ms Judie Cordie
241 - Mr Peter Stuart
242 - Ms Jodi Pattinson
243 - Mount Beppo Community Action Group
244 - Aza Saint
245 - Ms Melissa Bird
246 - Mr Peter Davis
247 - Ms Dianne Vavryn
248 - Mr David Price
249 - Ms Jenny Williams
250 - Mr Dan Gibson
251 - Andy Tainsh
252 - Ms Alison Rickert
253 - Mr Staurt Cronshaw
254 - Ms Louise Rose
255 - Ms Sylvia Jahn
256 - Ms Jacinta Jackson
257 - Mr Peter Smith
258 - Ms Kerry Green

259 - Ms Karen Klee
260 - Win. Willcox
261 - Ms Nicole Stitt
262 - Ms Francesca Gallandt
263 - Mr John Raymond
264 - Mr Ken Loughran
265 - Mr Ralph Richardson
266 - Ms Ada Medak
267 - Sandy Lumley
268 - Ms Linda Welch
269 - Mr Graham Ambrey
270 - Mr Edward Allwood
271 - Mr Max Travis
272 - Sandy Stevenson
273 - Robin Anderson
274 - Ms Margaret Andersen
275 - Ms Linda O'Gorman
276 - Ms Deb Percy
277 - Mr Aaron Fox
278 - B J Bosworth
279 - Ms Theresa Martin
280 - Sapphire Fish
281 - Mr Glen Carruthers
282 - Ms Danica Krco
283 - The Uniting Church in Australia, Presbytery of The Downs
284 - Citizens Against Mining Ben Lomond
285 - Confidential
286 - Mr Harold Florence
287 - Flor-Hanly Commercial and Agribusiness Accountants
288 - Western Downs Regional Council

Appendix B – Briefing officers

Briefing officers at a public briefing held on 25 June 2014

Department of Natural Resources and Mines
Mr Dean Barr, Manager, Mining and Petroleum Operations,
Mr Geoff Beare, Director, Business Strategy and Performance
Ms Bernadette Ditchfield, Executive Director, Lands and Mines Policy
Ms Myria Makras, Manager, Resources Policy and Projects
Mr Stephen Matheson, Chief Inspectorate, Petroleum and Gas
Mr Dave Ralph, Registrar, Petroleum Assessment Hub
Mr Marcus Rees, Director, Resources Policy and Projects
Ms Elisa Nichols, Executive Director, Reform and Innovation, Department of Environment and Heritage Protection
Mr George Houen, Rural Consultant, Landholder Services Pty Ltd

Witnesses at a public hearing held on 6 August 2014

Ms Jo-Anne Bragg, Principal Solicitor, Environmental Defenders Office Queensland
Mr Sean Ryan, Senior Solicitor, Environmental Defenders Office Queensland
Mr Andrew Barger, Resources Policy Director, Queensland Resources Council
Mr Ryan Gawrych, Solicitor, King Wood & Mallesons, Assisting Queensland Resources Council
Ms Katie-Anne Mulder, Resources Policy Adviser, Queensland Resources Council
Mr Michael ROCHE, Chief Executive Officer, Queensland Resources Council
Mr Nathan Lemire, Senior Policy Adviser, Queensland, Australian Petroleum Production and Exploration Association
Mr Matthew Paull, Policy Director, Queensland, Australian Petroleum Production and Exploration Association
Mr Bernie Hogan, Regional Manager, Association of Mining and Exploration Companies
Mr Jeremy Chenoweth, Chair, Mining and Resources Committee, Queensland Law Society
Mr Matthew Dunn, Principal Policy Solicitor, Queensland Law Society
Department of Natural Resources and Mines
Mr Dean Barr, Manager, Mining and Petroleum Operations,
Mr Geoff Beare, Director, Business Strategy and Performance
Ms Cecily Coleman, Principal Project Officer, Mine Safety and Health
Ms Bernadette Ditchfield, Executive Director, Lands and Mines Policy
Mr Dave Ralph, Registrar, Petroleum Assessment Hub
Mr Marcus Rees, Director, Resources Policy and Projects
Ms Elisa Nichols, Executive Director, Reform and Innovation, Department of Environment and Heritage Protection

Witnesses at a public hearing held in Toowoomba on 19 August 2014

Department of Natural Resources and Mines
Mr Dean Barr, Manager, Mining and Petroleum Operations,
Mr Geoff Beare, Director, Business Strategy and Performance
Ms Bernadette Ditchfield, Executive Director, Lands and Mines Policy
Ms Elisa Nichols, Executive Director, Reform and Innovation, Department of Environment and Heritage Protection
Mr John Erbacher, Private capacity
Mr George Houen, Landholder Services Australia Pty Ltd
Mr Neil Cameron, Committee Member, Basin Sustainability Alliance
Mr Peter Shannon, Committee Member, Basin Sustainability Alliance
Mr Michael Murray, Policy Manager for Water and Queensland, Oakey Coal Action Alliance
Mr John Cook, President, Oakey Coal Action Alliance

Ms Vicki Green, President, Friends of Felton
Ms Nicki Laws, Secretary, Friends of Felton
Mr Rob McCreath, Member, Friends of Felton
Mr Phil McCullough, Chief Executive Officer, Condamine Alliance
Mr Geoff Penton, Chief Executive Officer, Queensland Murray Darling Committee
Mr Lachlan Brimblecombe, Solicitor, Shine Lawyers
Mr Glen Martin, Senior Associate, Shine Lawyers
Mrs Lynette Dahlheimer, Private capacity
Mr William Dahlheimer, Private capacity
Mr Bruce Yebergang, Private capacity
Mr Barry Rich, Wandoan, Private capacity
Mr Glen Beutel, Private capacity

Witnesses at a public hearing held in Mackay on 20 August 2014

Ms Bernadette Ditchfield, Executive Director, Lands and Mines Policy,_Department of Natural Resources and Mines
Ms Elisa Nichols, Executive Director, Reform and Innovation, Department of Environment and Heritage Protection
Mr Andrew Barger, Director, Resources Policy, Queensland Resources Council
Mr Josh Euler, Manager, Corporate Affairs, GVK Handcock
Ms Katie-Anne Mulder, Resources Policy Advisor, Queensland Resources Council
Ms Patricia Julien, Research Analyst, Mackay Conservation Group
Ms Rhonda Jacobson, Senior Legal Officer, North Queensland Land Council
Ms Jennifer Jude, Senior Legal Officer, North Queensland Land Council
Ms Annette Currie, private capacity, via teleconference
Mr Bruce Currie, private capacity, via teleconference
Mr Peter Anderson, Private capacity
Ms Joanne Rae, Chair, Property Rights Australia
Ms Fiona Hayward, Private capacity
Mr Andrew Rae, Private capacity
Ms Jeanette Williams, Private capacity
Mr Lloyd Baulch, Private capacity
Mr Kelvin Sypher, Private capacity
Mr Alex Stuart, Private capacity

Witnesses at a public hearing held in Townsville on 20 August 2014

Ms Bernadette Ditchfield, Executive Director, Lands and Mines Policy, Department of Natural Resources and Mines
Ms Elisa Nichols, Executive Director, Reform and Innovation, Department of Environment and Heritage Protection
Mr Peter Lindsay, Chair, Guildford Coal Queensland Development Committee
Mr Donny Harris, Director, Donny Harris Law
Ms Wendy Tubman, Coordinator, North Queensland Conservation Council
Mr David Sewell, Spokesperson, Citizens Against Mining Ben Lomond
Ms Connie Navarro, Partner, Emanate Legal

Witnesses at a public hearing held on 27 August 2014

Mrs Letitia Farrell, Research Officer, Land Court

Mr Kevin Hayden, Registrar, Land Court

Ms Sue Dillon, Projects Manager, AgForce Queensland

Department of Natural Resources and Mines

Mr Dean Barr, Manager, Mining and Petroleum Operations,

Mr Geoff Beare, Director, Business Strategy and Performance

Ms Bernadette Ditchfield, Executive Director, Lands and Mines Policy

Mr Rex Meadowcroft, Director, Policy and Program Support, Department of Natural Resources and Mines

Mr Marcus Rees, Director, Resources Policy and Projects

Ms Elisa Nichols, Executive Director, Reform and Innovation, Department of Environment and Heritage Protection

Appendix C – Summary of submissions

This summary represents advice provided by the Department of Natural Mines and Resources on issues raised by submitters.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
1	APPEA	Chapter 2 and Chapter 5	Dealings, caveats and associated agreements - Importance of regulation	The 'technical and procedural matters' to be included in the regulation under the Bill include a large number of important dealings and applications provisions. A draft of the regulation under the Bill has not yet been released which will contain significant details on the application of these provisions. APPEA understands the DNRM is currently drafting the regulations and will release them for consultation with industry as this Bill is passed through Parliament.	The department thanks APPEA for its submission. It is the department's practice to consult on legislative amendments of interest to relevant stakeholders and this will continue to include APPEA.
		205	Dealings, caveats and associated agreements - Continuing effect of dealings	Registered dealings and associate agreements should carry over to subsequent higher-level authorities granted from prerequisite tenure and replacement tenures.	Clause 527 of the Bill amends section 908 of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) so that all dealings recorded against a petroleum tenure granted under the *Petroleum Act 1923* are automatically registered against a replacement of that tenure under the P&G Act. The carry-over of dealings to higher forms of tenure may not be appropriate as these are granted for a completely different purpose, entitlements, area and potentially different holders. There is no assessment of associated agreements as registrations of these are solely a service to industry and at their discretion. The department does not have an issue with associated agreements carrying over, if that is the wish of the broader resources industry.
		27(3)	Dealings, caveats and associated agreements -Consent to caveat	Only holders of a relevant share of a resource authority should need to consent to a caveat over only their share, not all holders.	Requiring the consent of all holders to register a caveat is the current requirement under each resource Act and the Bill maintains the status quo. This dates from the caveat provisions that were previously only available for the mineral and coal sector, prior to the standardised framework being implemented for all resource authorities in 2013. Requiring this broad consent ensures all holders collaborate in the management of their authority. Ultimately, the caveat provisions are provided as a service to the resources sector and other stakeholders to protect their registered interests. If changes are proposed, consensus of all stakeholders would be appropriate.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
		Chapter 7, part 3	Land access – Recording agreements on title	Where administratively onerous requirements such as registration of historical conduct and compensation agreements is contemplated, the transitional provisions need to be flexible to allow for reasonable timeframes for resources companies to do so (for instance, some proponents would be retrospectively registering over 2,000 agreements).	The department notes APPEA's interest in flexible arrangements in respect to the transitional provisions under Chapter 7, part 3 of the Bill. The department will continue to liaise with peak industry bodies regarding notation requirements of existing agreements, however clause 207 provides six months from commencement of the Act for existing agreements to be noted.
		486 and 526	Dealings, caveats and associated agreements -Transfer of applications	The Bill contains no provisions for the transfer of applications other than for mining leases, contrary to proposals during consultation.	The adoption of an 'application transfer' model as is currently available under the *Mineral Resources Act 1989* (MRA) for mining lease applications was contemplated. However, through the drafting process it was identified that an 'amending application' process similar to those currently in place in each of the other resources Acts is a more appropriate mechanism. Transfer of applications for the petroleum and gas sector is currently possible through applicable 'application amendment' provisions in the *Petroleum and Gas (Production and Safety) Act 2004* and *Petroleum Act 1923.* Clause 486 and 526 of the Bill amend the respective sections in these Acts to make this process quicker and more readily usable by the petroleum and gas sector. Currently, applications for petroleum leases where a change of applicant is required, must be approved by the Minister. As a matter of administrative efficiency, this decision is usually made when the application is being decided by the Minister, which may be some time after the application is lodged. Under the proposed changes in the Bill, this may now be done by the chief executive (or delegate) allowing the applicant change to be more readily effected.
		18	Dealings, caveats and associated agreements – Prohibited dealings	Seek clarification that prohibited dealings do not void or prohibit commercial arrangements.	The transfer of legal ownership of a divided part of a resource authority area is currently prohibited under the dealings provisions in each of the resources Acts and this policy is proposed to continue under clause 18 of this Bill. However, as clarified in the Explanatory Notes, any commercial agreement or transaction that does not transfer legal ownership is not prohibited. To transfer legal ownership, the Minister would need to approve the transfer and the change in ownership recorded on the register. If the transaction or commercial agreement does not attempt to do this for the area, then it is not prohibited. Other than sentence structure, clause 18 uses the same language as the existing sections of the resources Acts. For example, section 570 of the *Petroleum and Gas (Production and Safety) Act 2004* reads: "The following dealings with a petroleum

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					authority are prohibited—…a dealing…that transfers a divided part of the area of a petroleum tenure…" In contrast, clause 18 reads: "The following dealings are prohibited—a dealing with a resource authority that transfers a divided part of the authorised area for the resource authority…" Notably, under section 103 and 169 of the *Petroleum and Gas (Production and Safety) Act 2004* a holder can apply to divide petroleum tenure into 2 or more tenures with another person as the registered holder for the divided area.
1	APPEA	25(2)	Dealings, caveats and associated agreements -Receipt of caveats	Notification of caveats should be triggered on 'lodgement' not 'receipt'.	APPEA correctly pointed out that 'receipt' was not the right trigger in the context of the consultation draft which proposed that the caveator would notify other registered interests at this point. Now that the status quo of the chief executive undertaking this function is retained in the Bill, the word 'receipt' remains the correct trigger.
		27	Dealings, caveats and associated agreements -Caveats over own interest	A holder should only be able to register a lapsing caveat over their interest.	This is a commercial matter for the holders. Consent of all holders is needed to lodge a consent caveat that can be either indefinite or for a defined period. If holders have concerns about this issue, they should not consent to an indefinite caveat; otherwise a non-consent caveat only lasts for 3 months.
		40 and 43(1)	Land access - Drafting error	The drafting of section 43(1) of the Bill suggests that all of the relevant owners and occupiers must have the same type of agreement. It does not accommodate owners and occupiers holding different types of agreements. This issue could be addressed through a simple drafting amendment.	The policy intent for this requirement is that the resource authority holder has an appropriate arrangement in place with each owner and occupier, prior to accessing the land to undertake advanced activities. The provision should provide flexibility to accommodate the preference of each individual owner and occupier and not force them into agreeing to a single agreement or type of agreement. The Explanatory Notes to the Bill clarifies this policy intent. However the department will take the recommendation under consideration.
		45	Land access - Right to 'opt-out'	APPEA seek clarification on whether opt-out agreements must be in writing, and whether they are to be binding on successors.	The department can clarify that clause 45(2) prescribed requirements will require opt-out agreements to be in writing, in addition to the key criteria outlined in the Land Access Implementation Report (LAIC) (recommendation 4.2). The department is currently considering whether opt-out agreements should be included within clause 93 as binding on successors and assigns.
		48	Land access - Oral access agreements	The Bill does not expressly provide for the parties to agree to extend the 20-business day period after which the owner or	While there is no express provision in the Bill for the parties to extend the period beyond 20-business days, the Bill does not exclude the parties from negotiating

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				occupier is deemed to have refused to make an access agreement. Suggest adding a provision to expressly provide for an extension to be made.	and agreeing to an extended period. This provision merely establishes that the 20-business day period is the minimum requirement before the matter can be escalated to the Land Court. After the 20-business days if agreement cannot be reached, either party may make an application to the Land Court for the matter to be heard.
		53(3) and 97(3)	Land access - 'Court-made' agreements	The Land Court has jurisdiction to make or vary an access agreement and a CCA "because of a material change in circumstances". APPEA suggests adding further clarity to the Bill by defining or providing examples of what a "material change" may be.	The Bill does not define "material change" to ensure that the application of the provision is not inadvertently narrowed. The *Petroleum and Gas (Production and Safety) Act 2004* provides the example of a material change in circumstances as being a significant increase or decrease in the extent of a notifiable road use. There are existing legal precedents defining "material change" that can be used to provide guidance for the parties and the Land Court, where required.
		55	Land access - Access in relation to land outside of the authorised area for rehabilitation	APPEA suggests the Bill be amended to authorise post-tenure access for rehabilitation and post-tenure access.	This provision has been migrated across from the existing resources Acts and maintains the status quo. It provides access to land under a resource authority for environmental management and rehabilitation. The point raised is acknowledged however any amendment of this provision should not be undertaken without a review of the broader tenure management and environmental licencing framework.
		76(2)	Land access – Access if second authority is not a lease	Clause 76 provides for access to land by a resource authority holder within a second resource authority holder's tenure area (where that tenure is not a lease) without consent. Clause 76(2) states that the access right may only be exercised by the first resource authority holder where 'its exercise does not adversely affect the carrying out of an authorised activity, or proposed authorised activity, for the second resource authority' (emphasis added). The meaning of 'proposed authorised activity' is unclear and has the potential to mean future authorised activities that have not even been authorised yet. Clarification may be achieved by omitting the reference to 'proposed authorised activity' from clause 76(2) and adding a clause 76(3) similar to that contained at the existing section 530(3) of the P&G Act: "Subsection (2) applies whether or not the authorised activity has already started"	It was not the intention of the MQRA Program to amend these provisions. The change appears to be an inadvertent amendment arising from the drafting style adopted by the Bill. The department will take the recommendation under consideration.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
1	APPEA	78	Land access - Notification to new owners/occupiers	The Bill requires an authority holder to notify a new owner or occupier, within 15 days of becoming aware of the change, of any notice or waivers that are in place regarding the entry to the land. APPEA suggests that this requirement be removed and that the requirement be the responsibility of the outgoing owner or occupier to advise the incoming owner or occupier.	The clause maintains the status quo for this requirement that is currently within each of the resources Acts and therefore is not an increase in regulatory burden. Nothing in this clause obligates the holder of the authority to actively monitor changes in ownership or occupancy. The intent of the clause is that if the holder becomes aware, and this may occur if the new or previous owner of occupier chooses to notify the holder, then the holder has 15 business days (~3 weeks) to give a copy of the entry notice or waiver to the new owner or occupier. This allows the new owner or occupier to be aware of existing circumstances related to entry or waiver of entry if the previous owner has neglected to pass on these details.
		80	Land access - General liability to compensate	There has been no change in the definition of compensatable effect.	Clause 80(4) provides a list of categories of effect for which compensation may be claimed. This provision has been migrated across from the existing resources Acts and maintains the status quo. The Land Access Implementation Committee (LAIC) was asked to review the heads of compensation to ensure no cost or erosion of landholder rights. An independent consultant was engaged to undertake a comprehensive analysis of the heads of compensation in Queensland, and the LAIC Report concluded that it would not be prudent to further legislate the heads of compensation at the current time due to the positive evolution of negotiating practice. The department is committed to implementing the LAIC Report recommendations, including advice regarding the current heads of compensation.
		90 and 207	Land access - Agreements to be recorded on titles	Suggest clarity should be provided to indicate that a single notice can be provided to the registrar to remove multiple CCA/opt-out records that relate to that tenure when the tenure ends. Clarity is sought on how clause 90(3) will apply where the ending of an agreement is the subject of a dispute.	The Department is investigating the possibility of enabling a single notice to be lodged with the Titles Registry containing multiple agreements; allowing multiple notations or removal of notations upon title to occur. Clause 90(3) requires a resource authority holder to give the titles registrar, within 28 days of the agreement ending, the necessary notice. All agreements will be required to stipulate within their conditions the period for which the agreement will have effect. If a dispute arises over the termination of the agreement, general avenues of contract dispute resolution such as mediation, arbitration and litigation will apply and resource authority holders, if required, will be able to remove the particulars on the title within 28 days of resolution of the dispute.
		207	Land access – Transitional provisions	The transitional provisions provide that 'continuing agreements' (being past conduct and compensation	The purpose of the LAIC Recommendation 3.1 requiring CCAs to be noted on title was to ensure that a prospective purchaser of a property is made aware that a

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
			for agreements	agreements in force immediately before commencement) must comply with the registration requirements within 6 months of commencement. APPEA submits that, at the very least, the transitional provisions should allow for existing conduct and compensation agreements to remain unregistered. Neither the Bill nor the Explanatory Notes consider how clause 90(3) will operate if the parties to a CCA are in dispute about whether an agreement has ended/ been terminated. APPEA seeks clarification on this matter.	CCA exists and can investigate the terms and conditions that may apply to them as a future owner. This recommendation was developed by peak agricultural and industry representatives on the LAIC and originated due to stakeholder concerns about the potential for a property to change hands without a purchaser's knowledge that an agreement exists. To deliver certainty to prospective purchasers and give full effect to the LAIC recommendation, existing conduct and compensation agreements will be required to be noted upon title to eliminate this risk. See response to clause 90(3) as provided above.
		207-209, 214	Land access - Transitional provisions	APPEA is seeking clarification on the meaning of the phrase "being negotiated" as it relates to the transitional provisions for agreements that have commenced the process but have not been finalised prior to the commencement of the Act.	The purpose of these transitional provisions is to ensure that where an agreement has been entered or the process has been commenced under the existing resources Acts, that the parties are not required to re-start the process when the new Act commences. Most of the agreements that APPEA have noted, have a first step in an Act which indicates when the process has been commenced. For example, a notice of intention to negotiate is required to initiate the legislative CCA and deferral agreement processes. This is a practical point to indicate that an agreement is being formally negotiated. For the other agreement types, that generally relate to public land, other evidentiary aides can be utilised, such as proof of emails, correspondence and other records of discussions, to determine if the process has been commenced and therefore is "being negotiated" when the Act commences.
		68	Restricted land – Primary dwellings	Requests clarification as to what constitutes a 'primary dwelling' as being a residence for a registered owner.	The intent of this provision is that restricted land would apply to a residence that is the main dwelling for the occupants. It is not intended to include houses that are permanently unoccupied or used on a temporary basis. It is not uncommon for houses located on large properties that are owned by another member of the family to be used as the primary residence without formal arrangements. It would also exclude tenants renting a house. The proposed definition of residence as a primary dwelling is narrower than the existing relevant definitions for the 600 metre rule that a residence is only qualified by it being 'occupied' and for the existing restricted land framework for the mineral and coal sector, it is a permanent building used mainly as accommodation.

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		68	Definition of 'restricted land'	Clause 68 of the Bill defines 'restricted land'. There are a number of terms used in this definition that are problematic: (i) it is unclear what constitutes a 'place of worship' – it is defined very broadly in clause 68(3) to include any permanent building "used for public religious activities of a religious association (including charitable, educational and social activities"; (ii) it is unclear what constitutes an 'area' used for a school/ cemetery/ aquaculture etc; (iii) it remains unclear what constitutes a 'building used for a business or other purpose' – although we note that such a building is only 'restricted land' to the extent that it is "reasonably considered that the building cannot be easily relocated; and the building cannot co-exist with authorised activities"; and (iv) it is unclear in what circumstances a building will be considered to be 'easily relocated' or not; (v) it is unclear what the purpose of clause 68(1)(b) is – ie. restricted land "does not include land within a prescribed distance of a building or area prescribed by regulation".	Under clause 68(1) of the Bill, the proposed definition of restricted land includes, among other things, a permanent building used as a place of worship. The inclusion of places of worship under clause 68 maintains the this type of permanent building as provided under the existing restricted land frameworks of the *Mineral Resources Act 1989* (MRA) and the *Geothermal Energy Act 2010* (GEA). Clause 68(3) provides further definition of 'place of worship' than is currently provided under either the MRA or GEA. The proposed definition in the Bill is intended to provide some clarification on the broad definition that exists under the current MRA and GEA frameworks. The definition would not include private, non-permanent structures not considered a building that would not be ordinarily accessible by members of a particular religious association. The area for a school, cemetery or intensive farming, is the actual land upon which the use is being undertaken. For example, for schools, it would include the boundary of the school including playgrounds and sports fields; for a cemetery, it would include the designated land to be used for burials. This information would be readily available through property boundary and survey information. For intensive farming and aquaculture, the thresholds described in schedule 2 of the *Environmental Protection Regulation 2008* to which the provision in dependent, provides relevant descriptions for example, for aquaculture this is related to an 'enclosure', this is further defined as a cage, pond or tank. For a building used for business or other purpose, this is only considered restricted land if it is reasonably considered the building cannot be easily relocated and cannot co-exist with the proposed resource activity. This is intended to provide an outcome based test to determine if restricted land applies that provides flexibility to deal with individual cases. While there may be issues resolving whether restricted land applies in some circumstances, particularly in the early stages of implementation of this framework, it is expected this will abate over time. This includes the efficiency of the Land Court in making these declarations and the potential use of the regulations to clarify issues. Clause 68(1)(b) allows the regulations to prescribe a type of building or area that is excluded from restricted land. To resolve any difficulties that may arise in determining restricted land, clause 72 proposes a process where the Land Court can make a determination whether particular land is restricted land. Regulation making powers are also proposed to adapt to circumstances as they evolve.

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1	APPEA	68	Restricted land - Building that can 'co-exist' with authorised activities	Neither the Bill nor the Explanatory Notes include examples of buildings that cannot co-exist with authorised activities.	It would be impractical to have a comprehensive list of buildings that cannot co-exist with authorised activities as this would depend on the circumstances of the case, e.g. nature of the business or purpose the building is used for, and the activities proposed and whether it can be easily relocated and cannot co-exist etc. Under the existing restricted land framework for the mineral and coal sector, all permanent buildings used for business purposes trigger restricted land. Notably under this Bill, this will not be the case. This aligns with an outcomes based framework that provides flexibility to deal with individual cases. The Explanatory Notes provide some examples of buildings for business purposes that would likely generate restricted land including a veterinary practice or retail premises. Examples are also provided of buildings that would unlikely generate restricted land including a pump shed, hayshed or a roadside stall. There will be consultation on the draft regulation where this can be considered.
		70	Restricted land - 'Owner' and 'occupier' consent	Clause 70 of the Bill contains the general provision that a person must not enter restricted land to carry out activities for a resource authority unless each "relevant owner and occupier" has given consent. APPEA suggested that the definition of occupier be restricted to someone who has a 'registered lease to occupy a primary dwelling'. Clause 69 of the Bill defines what is a 'relevant owner or occupier' but to obtain a complete understanding it is necessary to refer to clause 12 and Schedule 1 of the Bill for the definitions of the stand-alone terms 'owner' and 'occupier'. The definitions for these terms have not changed in substance from those currently provided under the P&G Act. Relevantly, an 'occupier' is not simply a person who has a registered lease, but: • "any person who under an Act or a registered lease has a right to occupy the place (other than under a resource authority)"; and • "any person who has been given a right to occupy the place by an owner or another person	Occupiers have been included in the restricted land framework as it is not uncommon for houses located on large properties that are owned by another member of the family to be used as the primary residence without formal arrangements. Other occupiers would include tenants renting a house or a lessee of a business premises. A distance of 200 metres has been consulted on as a potential range for restricted land to apply. Any occupiers that have a right to occupy within such a relatively small distance should be readily identifiable in consultation with the owners. The intent of this provision is that restricted land would apply to a residence that is the main dwelling for the occupants. It is not intended to include houses that are permanently unoccupied or used on a temporary basis. The proposed definition of residence as a primary dwelling is narrower than the existing relevant definitions for the 600 metre rule that a residence is only qualified by it being 'occupied' and for the existing restricted land framework for the mineral and coal sector, it is a permanent building used mainly as accommodation.

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				mentioned in paragraph (a)." The term 'right to occupy', used in the definition of 'occupier', is clearly extremely broad and has the potential to not only include leaseholders and persons holding a permit to occupy, but also bare licencees and other persons not located on any public record. Under the current 'restricted land' provisions contained in the Mineral Resources Act 1989 (Qld), consent must only be obtained from 'owners', and not 'occupiers'. The extension of the consent requirement to 'occupiers' is concerning as it creates a very broad class of persons from whom restricted land consents must be obtained. APPEA would like clarity in particular as to what constitutes a 'primary dwelling' to being a residence for a registered owner and an occupier must have a registered lease to occupy a primary dwelling.	
		67	Restricted land - Exemptions	Why has APPEA's suggested exemptions to restricted land (e.g. ponds, access tracks, vents and drains) not been included?	As per the Explanatory Notes, the exemption for underground cables and pipelines does not include ancillary surface infrastructure. The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. It is important to note that the exemptions only become relevant where the resource company is unable to reach agreement with the landholder to undertake the activities and the resource company is of the view that the activity in that area is critical to the operation. Allowing some of these activities within restricted land without landholder consent could result in landholders facing ongoing surface impacts and would lessen their certainty for activities within these areas. The department is considering other options to ensure a landholder does not inadvertently prevent access to the entire property by exercising their right to withhold consent for using access tracks within restricted land. This may include an amendment to the Land Access Code.
1	APPEA	67	Restricted land - Exemptions	Clarification is sought as to what constitutes the commencement of the 30 days that applies to the exemption to install pipelines.	This aspect of the restricted land framework is to minimise surface impacts on landholders while recognising that in some areas, underground pipelines and cables may be best suited to be installed in corridors that can be in relatively close proximity to buildings. The main impact relating to the underground cable or

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					pipeline on the landholder is the excavation, installation and backfilling of the trench. This would need to be completed within 30 days. Other related activities suggested by APPEA such as surveying and remediation could be considered to be prescribed under the Regulation for clarity.
		70	Restricted land - Accessing land off tenure	There is no provision in the Bill to allow resource companies to access properties off tenure to determine the existence of restricted land.	It was not considered necessary to introduce a statutory right to enter land and an associated framework to provide for this access, particularly when the mineral and coal sector currently operate under a restricted land framework without such a right. A range of options are available to determine the existence of infrastructure that may generate restricted land within 200 metres from an authority boundary. This could include satellite or aerial images, observations made from within the resource authority area and talking to neighbouring landowners where good relations exist.
		68	Restricted land – Point when it applies	It is preferable that restricted land applies at the date the resource authority application is lodged, rather than when granted.	The grant of a resource authority was set as the point in time when restricted land applies to achieve some compromise between the existing frameworks this policy is intended to rationalise and to balance the interests of landholders with the proposed resource activity. There are advantages and disadvantages of when restricted land should apply. The current restricted land framework for the mineral and coal sector is inconsistent. For mineral development licences, mining claims and mining leases, restricted land applies from the time the application is lodged. For mining claims and leases, restricted land is excluded from the grant if consent from the owner is not received before the last objection day. However, for exploration permits restricted land applies at any time. The same is true for the restricted land framework for geothermal tenures and the petroleum and gas sector with respect to the 600 metre rule. While it is possible that a building (other than a residence) may be constructed between the time an application is lodged and when it is granted, it still needs to satisfy the criteria for being restricted land (i.e. cannot co-exist and not be easily relocated). Any attempt to quickly construct a building to impede the applicant's proposal would need to meet these criteria. A landholder may have legitimate construction underway or planned when an application for a resource authority is lodged. As they have no ability to predict the lodgement of an application, in this case it would be reasonable for the landholder

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					to have an opportunity to complete their intentions. For petroleum and gas operations, unlike a mineral or coal mine, the exact location of infrastructure is not as critical. This together with the likelihood of a landholder purposely going to the expense of creating restricted land successfully (to impede the applicant), the risk of this provision causing serious issues should be low.
		67	Restricted land - 'Prescribed activity'	Clause 67 of the Bill defines 'prescribed activities' that cannot be carried out within restricted land without owner or occupier consent. 'Prescribed activity is defined to include activity carried out "below the surface of the land in a way that is likely to cause an impact on the surface of the land". It is not clear what 'likely to cause' encompasses in the context of this provision. A list of specific activities which are exempted should be included in the regulation.	There will be consultation on the draft regulation where this can be considered.
		72	Restricted land - Declaration about restricted land	Clause 72 of the Bill allows an owner, occupier or holder of a resource authority to apply to the Land Court to make a declaration about whether land is restricted land. The practicality of proponents utilising this process – which is potentially costly and is not subject to any timeframes – is questionable. The process also has the potential to delay a proponent from commencing activities.	In the majority of cases resource companies and landholders will be able to agree on the application of restricted land to particular infrastructure; however it is valuable to have an independent body to review and resolve disagreements so that an outcome can be determined one way or another. While there may be issues resolving whether restricted land applies, particularly in the early stages of implementation of this framework, it is expected this will abate over time. This includes the efficiency of the Land Court in making these declarations and the potential use of the regulations to clarify issues.
		175	Definition - Deciding authority	The term 'entity' is generally not used in legislation, 'person' is recommended.	Entity is defined under the *Acts Interpretation Act 1954* as a person and an unincorporated body.
		178(2)	Application has no effect	The deciding authority should only be able to consider the requirements for making an application to allow it to proceed as substantially compliant, not whether it is type of application that cannot be made.	Section 179(b) states that substantial compliance may only be considered for matters under section 177(1)(b) to (d). These do not include whether the application can be made or not, therefore an application that is prescribed that cannot be made, will not be able to proceed as substantially compliant.
		Chapter 9, part 3 – division 3 part 4 – division 6	Legacy boreholes - Clarity as to basis of authorisation for remediation action by	APPEA comment/recommendation: An additional section should be added… to state that if a person has an authorisation under s.294B, even if those remediation activities are being done in the area of a tenement held by that person, the remediation activities are taken to be carried	It is noted that a tenure holder may choose to initiate remediation of a legacy borehole located on their tenure as an authorised activity. If this occurs, the activity will be subject to existing access, notification, conduct and compensation negotiation, and environmental requirements that apply to authorised activities. The provision for the State to authorise a person applies to a much broader scope of

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		part 5 – division 6 part 7 – division 7 part 9 – division 6 part 10 – division 7	tenure holder	out only under the s.294B authorisation and not as an authorised activity for the tenement." The Bill does not include any provisions to this effect. As a result persons acting under a section 294B authorisation in the area of their own tenure do potentially suffer from a lack of clarity as to whether they will benefit from the protections granted to section 294B authorisation holders, or whether their actions will simply constitute 'authorised activities' for the tenure.	scenarios, including where there is no tenure. It is possible for an authorisation to be granted to a tenure holder to remediate a legacy borehole located on their tenure. The process for authorisation including the required notification to the landowner/occupier will state the remediation work is being done as a s.294B authorisation. The authorisation will state the scope of work and what limitations or conditions apply to the works. Any action outside the scope of the authorisation would not be part of the s.294B authority and would fall under "authorised activity". The purpose of the amendments is to ensure action can be taken to deal with legacy boreholes that present a safety concern. Section 294B authorisations provide for this wherever the borehole is located and independent of the reason it was drilled. An authorisation would be granted to a tenure holder so that emergency access, notification and environmental requirements can apply to ensure an immediate response.
1	APPEA	Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 – division 7 part 9 – division 6 part 10 – division 7	Legacy boreholes - Consent of an overlapping tenement holder to conduct remediation of a legacy borehole	APPEA comment/recommendation: It might be the case that a tenement holder requires the consent of an overlapping tenement holder in order to conduct remediation of a legacy borehole…. [This] may deter parties from undertaking remediation as an "authorised activity" under a tenement where consent of an overlapping tenements holder is required. [Recommend:] Possible clarification in the Protocol about remediation on overlapping tenures." The Bill does not include any provisions to this effect. The likely effect of this (together with the fact that a company remediating a legacy bore as an "authorised activity" does not have indemnity protection, and is subject to the usual environmental and land access obligations) is that a companies will seek section 294B authorisation before undertaking any remediation as an "authorised activity".	It is intended to revise the Protocol following passage of the amendments. Given the State's interest in maximising resources production, it is imperative there be discussions between overlapping tenure holders about authorised activities that may affect the other's operations. The amendments including the provision to facilitate remediation of boreholes as an authorised activity by tenure holders have been drafted with the intent of not increasing burden or obligation on industry. It is understood that in some cases, there will not be any benefit, capacity or capability by tenure holders to voluntarily remediate legacy boreholes.
		Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 –	Legacy boreholes - Legacy borehole definition	APPEA comment/recommendation: In all of the Acts except the P&G Act, the "Legacy Borehole" definition includes the words "reasonably believes". However, in the P&G Act definition, those words are omitted and are instead used in sections 23 and 24 of the Bill. The definition of "Legacy Borehole" should be changed so that the use of the terminology is consistent across all Acts."	This is a legislative drafting matter and the legislative effect is identical across the resources Acts. The definition is structured differently because the P&G Act includes the amendment for State authorisation as well as an amendment for authorised activity. In the other resources Acts, only the authorised activity amendment has been included. If the "reasonably believe" element were to be added to the definition in the P&G Act – the definition would also need to distinguish who is to reasonably believe for each legacy borehole provision – i.e. the Chief Executive in relation to the State authorisation under s.294B and the

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		division 7 part 9 – division 6 part 10 – division 7			holder of tenure under for the amendments to s.32 and s.109. The department could also authorise the overlapping tenure holder to assist/ensure all necessary agreements/systems are in place to support the remediation activities.
		Chapter 4	Overlapping tenure - Compensation or costs of replacement are to be assessed based on principles to be set out in the regulations	Definitive positions/comments cannot be made on how the Bill provisions adopt the principles of the White Paper on compensation for lost CSG production, replacement of major PL major gas infrastructure, replacement of PL minor gas infrastructure, severing of PL connecting infrastructure and ATP major gas infrastructure, as the compensation or costs of replacement are to be assessed based on principles to be set out in the regulations. It remains to be seen to what extent the regulations will reflect the principles in the White Paper. The hierarchy of compensation methods has not been reflected in the Bill.	The department notes APPEA's concern regarding the hierarchy of compensation methods. It was the department's intention that the hierarchy of compensation methods be included in the regulation. In response to industry's concerns, the department is investigating options to clearly show the hierarchy of preferences (i.e. mitigation of loss, replacement gas and financial compensation).
		162	Overlapping tenure - Replacement CSG	The concept of a PL holder having to provide replacement CSG to an Mining Lease (ML) holder as a reconciliation payment for later recovered CSG for which the PL holder had been compensated, has been introduced at section 162(2) (b). APPEA is unclear on how the provision of replacement CSG works in this context. It is not mentioned in the White Paper. It may be a misapplication of the concept of the ML holder providing compensation for lost CSG production through providing replacement gas.	The department notes APPEA's concern regarding that reconciliation payments to an ML holder may be through replacement gas. However, the final Technical Working Group paper on compensation provides that a form of reconciliation payment that a PL holder may make to an ML holder is replacement gas. Clause 162 has been drafted to reflect this industry agreed position.
		221-223	Overlapping tenure - Exploration activities over a production tenement for the other resource	The Bill at sections 221 and 223 does continue the existing restrictions on exploration activities over a production tenement for the other resource. That is the written consent of the production tenure holder must be obtained. This seems appropriate. However, sections 221 and 222 are meant to ensure that granted PLs and MLs that exist at the commencement of the new regime should not be subject to the new regime at all, and should continue to be governed by the old regime. This should be clearly stated in those sections as the current wording is vague such that it is not	The department agrees with the comments made by APPEA in its submission and is working to resolve the matter.

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				clear that new Mining Leas Application (MLAs) made from Exploration Permit for Coal (EPCs) and Mineral Development License (MDLs) over existing PLs and new PLAs that are made over existing MLs are to be dealt with under the old provisions.	
		Chapter 4	Overlapping tenure - Restriction on activities under a PL being carried out on land overlapping an already granted EPC or MDL	There is still a restriction on activities under a PL being carried out on land overlapping an already granted EPC or MDL. The PL activities can only be carried out if there is no adverse effect on already commenced coal exploration activities. APPEA does not believe this was intended by the White Paper. Further there is the possible anomaly in the case of already granted PLs overlapping EPCs and MDLs that after the commencement of the Bill the EPC and MDL holder will still require the written consent of the PL holder to conduct activities within the overlap area.	The department agrees with APPEA's comment that the Adverse Effects Test approach in clause 145, so far as it applies to a PL, is inconsistent with the White Paper. The department is investigating options to resolve the matter.
1	APPEA	Chapter 4	Overlapping tenure - Land access for overlapping production tenures where a production tenure holder (or a related entity) owns the underlying land.	Land access has only been partly addressed with respect to the overlap of an ATP with an ML – section 146. There are no provisions dealing with land access for overlapping production tenures where a production tenure holder (or a related entity) owns the underlying land.	The department agrees with APPEA's comment. The department is investigating options to apply the expedited land access provision to both an ATP holder and PL holder.
		231-233	Overlapping tenure - Transitional provisions at sections 231 to 233 for Surat Basin area petroleum leases	The transitional provisions at sections 231 to 233 for Surat Basin area petroleum leases may not work as effectively as intended by the White Paper. As the sections of the Bill are currently worded the 16 year (non-reducible) delay for commencement of mining does not apply to a mining lease applied for but granted after the commencement of the new provisions and does not apply to a PL granted before the commencement. In the former case the holder of the ML granted after the commencement could give an 11 year notice of commencement of mining in the Surat Basin area and shorten that time (subject to compensation) by an acceleration notice.	These particular transitional arrangements reflect the advice given to industry via correspondence dated 26 November 2013. The department agrees that the intent was that the parties can agree to a mining commencement date that is different to the statutory minimum. The department is investigating options to clarify the application of the division and the ability of the parties to agree to an agreed mining commencement date different to that provided in section 232. The department understands that APPEA and the QRC are coordinating discussions with industry on this particular matter and will be providing additional advice to the department regarding possible amendments.

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		124	Overlapping tenure - Ability of an ATP holder to give an exceptional circumstances notice	The ability of an ATP holder to give an exceptional circumstances notice which would bind it once it became the holder of a PL has not been included in the Bill even though it was in the working draft.	The department agrees with APPEA's comments on this matter. The department is working to resolve the matter.
		Chapter 4, part 2, division 5	Overlapping tenure - Where a PL holder is to commence production on the area of an overlapping ML	There is a potential lack of clarity of the application of chapter 4 part 2 division 5 of the Bill which addresses where a PL holder is to commence production on the area of an overlapping ML. The sections require an agreed joint development plan to be in place. The working draft provided for these matters to apply where an ATP was granted first then an ML and then a subsequent PL based on the ATP. Section 136 takes into account both where there is and where there is not an existing ATP but on the strict wording of section 102 of the Bill the sections may not apply where a PL is granted after an ML, as such a PL would not be a column 2 resource authority mentioned in the table for part 2.	The department thanks APPEA for its comments. It does appear there is an error in the current drafting of this part of the Bill. The department is working to resolve the matter.
		144 and 145	Overlapping tenure - Freedom to explore for and produce CSG outside any area of sole occupancy	The White Paper provides that the gas party should be free to explore for and produce CSG outside any area of sole occupancy (White Paper 3.2.2 and 3.3.5). The Bill provides that an ATP or PL holder could only carry out an authorised activity in an overlapping area if it does not adversely affect the authorised activity of an overlapping EPC or MDL holder. (section 145). The White Paper 3.3.5 expressly states that on production tenures, the conduct of exploration activities will be subject to a requirement that any activities which are undertaken must not adversely affect safe and efficient production activities on the overlapping production tenure. Reference to 'petroleum lease (CSG)' should not be included as Column 1 tenure under section 144. A production tenure holder must be able to undertake production activities in accordance with its development schedule and must be able to implement additional safety measures in mitigating risk to personnel and equipment to as low as reasonably practical when an explorer enters into a producing area.	The department agrees with APPEA's comment that the Adverse Effects Test approach in clause 145, so far as it applies to a PL, is inconsistent with the White Paper. The department is investigating options to resolve the matter.

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		131	Overlapping tenure - Authorised activity in an overlapping area only if the activity is consistent with each agreed joint development plan that applies to the relevant holder	The Bill provides that a Petroleum Resource Authority (PRA) Holder and an ML holder may carry out an authorised activity in an overlapping area only if the activity is consistent with each agreed joint development plan that applies to the relevant holder (section's 131(2); 142(2)). APPEA respectfully deems that the PRA holder should be entitled to commence or continue authorised activities under the PRA unless and until there is an agreed joint development plan. Further, the White Paper contemplated that a PL holder would be free to carry out its activities in the balance of the PL/ML overlap area outside the Initial Mining Area (IMA), Rolling Mining Area (RMA) and Simultaneous Operations Zone (SOZ), but the ML holder would have the "right of way" inside the IMA and RMA and the SOZ would be subject to safety and health arrangements. Section 131 of the Bill does not make this distinction and should be amended to align with the White Paper.	It is a condition of all resource authorities that the holders have and comply with the relevant work program or development plan when carrying out authorised activities in the area of the authority. The department does not consider that clause 131(2) limits the rights of an ATP or PL holder to undertake authorised activities outside the area of an IMA,RMA or SOZ, provided these authorised activities undertaken by the ATP or PL holder are consistent with the agreed joint development plan. Section 131(2) does not affect the right of an ATP or PL holder to continue to carry the authorised activities for the petroleum resource authority under their work program or development plan until such time that an agreed joint development plan is lodged. Only once the agreed joint development plan is in place (i.e. agreed to and lodged under section 127) is the ATP or PL holder obligated to comply with the agreed joint development plan under section 131(2). The provisions in question have no impact on the agreed industry position that the PL holder may undertake authorised activities outside the area of the IMA, RMA or SOZ (safety and health obligations applying). The same applies to the ML holder under clause 142(2) of the Bill.
		126	Overlapping tenure - Indefinite period to carry out rehabilitation	Section 126 (4) of the Bill allows the ML holder to occupy an IMA or RMA for an indefinite period to carry out rehabilitation. This occupancy could result in the PL/ATP holder being unable to enter the area to carry out activities until the rehabilitation is completed. A definite date for the ML holder to abandon an IMA or RMA should be stated.	The department notes APPEA's concerns with the clause. However, the proposed legislative amendments in the Bill have been developed to meet the agreed position as provided in the White Paper, which does not provide for a statutory abandonment date.
1	APPEA	Chapter 4	Overlapping tenure - Basic property rights to gas reside with the holder of the petroleum tenement	The White Paper accepts that the basic property rights to gas reside with the holder of the petroleum tenement, and that in return for agreeing to a right of way for coal mining, there should be a well-defined compensatory right for the petroleum tenement holder to take any ICSG produced by the ML holder. In essence, that is a right to take gas that the petroleum tenement holder could otherwise have produced themselves but for the right of way for coal mining. Of fundamental importance to this trade-off is a requirement that the ICSG be produced by the ML holder in a form aligned with the requirements of the petroleum tenement	The department agrees with APPEA's comments. The department will continue to work closely with APPEA and other key external stakeholders during the development of the regulation relating to this matter to ensure it reflects the intent of the White Paper and remains relevant.

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				holder, and then offered on terms that could reasonably be accepted (a "reasonable offer"). If follows that the ML holder's right to commercialise ICSG should only arise when a reasonable offer has been rejected and further, that compensation liabilities are offset only when a reasonable offer has been rejected. The production and offer requirements for ICSG therefore have a flow-on effect from Division 4 of the Bill dealing with ICSG to Division 3 dealing with compensation and dispute resolution, and to the MRA amendments dealing with the commercialisation of ICSG. It is therefore important that the requirements for ICSG production in overlaps and for an offer of the ICSG to be valid and reasonable are clearly enshrined in the legislation itself.	
		Chapter 4 Chapter 7, part 4	Overlapping tenure - Main purpose Savings and transitional provisions – Grandfathering of existing arrangements Bespoke arrangements	The Bill does not address the continuation or application of existing agreements or generally acknowledge the ability of the tenure holders to agree to alternative arrangements. One of the foundation principles of the White Paper for the proposed legislative framework is flexibility for parties to negotiate bespoke agreements as an alternative to the legislative default. Whilst the MERCP Bill provides for certainty and predictable conduct, the White Paper acknowledges the rights of parties to come to alternative arrangements where opportunities for further cooperation exist. This principle includes recognition that existing agreed co-development arrangements are already in place and do not fall under the Bill unless both parties agree to opt into the legislative default framework described under chapter 4. The Bill must therefore recognise that the terms of an existing joint development plan may override the legislative position unless the Minister decides otherwise in accordance with s150 of the Bill. Although section 100 (2)(e) states that the main purposes of	The new overlapping tenure framework will have no impact on existing statutory agreements (i.e. coordination arrangements) that have been approved by the Minister and are the relevant arrangement to overlapping production resource authorities under the existing framework. The existing framework provided in the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production & Safety) Act 2004* will continue to apply to a coordination arrangement in this scenario. The Bill as drafted does currently contain some flexibility for the parties to agree to arrangements that differ to that provided in the statutory framework. For example clause 114(2) provides the ability to agree to a mining commencement date that is different from the ones provided for in the relevant clauses of chapter 4 and chapter 7. However, the department is continuing to work with industry to ensure that the new overlapping tenure framework provides some flexibility for the parties to, in certain circumstances, enter into alternative arrangements to those established in the framework. The department is investigating options to make clearer that the parties may agree to alternative arrangements to those prescribed in the new overlapping tenure framework, except to the extent of certain prescribed aspects which are required for the State to discharge its custodian obligations.

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				chapter 4 are achieved amongst other ways, by providing for participants in each of the industries to negotiate arrangements as an alternative to particular legislative requirements, the operative provisions of the chapter do not acknowledge this ability or purport to preserve existing arrangements between participants.	
		N/A	Overlapping tenure - ATP holder's relinquishment obligations and work program conditions	Chapter 4 of the Bill does not deal with the impact of the new overlapping tenure regime on relinquishment and work program obligations of the ATP holder. (Chapter 4) Recent amendments to the *Petroleum and Gas (Production and Safety) Act 2004* by the *Land and Other Legislation Amendment Act 2014* were not designed to address necessary amendments to work programs due to sole occupancy under a mining lease. The White Paper describes that an ATP holder is to be relieved from relinquishment obligations and work program conditions to the extent of any area the subject of sole occupancy by the ML holder.	The department understands that the recent amendments to the *Petroleum and Gas (Production and Safety) Act 2004* relating to relinquishment for ATPs granted under the Act have been drafted in a manner so that they will apply to the new overlapping framework. The department will clarify this prior to debate.
		124	Overlapping tenure - Exceptional circumstances notice	The White Paper provides that exceptional circumstances may be claimed by an ATP holder when an ML application is made over an ATP and could be given for IMAs and RMAs with the ability to re-open a claim for areas outside the IMA or RMA, if the ML holder changes its mine plan triggering truncation. (White Paper 3.4.2) The Bill only allows a PL holder to give an exceptional circumstances notice in respect of an IMA. The Bill must also include provision for exceptional circumstance notices to apply where there are changes to an existing RMA.	The department notes APPEA's concerns with the clause. However, the proposed legislative amendments in the Bill have been developed to meet the agreed position as provided in the Technical Working Group paper on the Extension of Notice Periods in Exceptional Circumstances. That is, the petroleum resource authority holder can only claim for exceptional circumstances outside the IMA where the mining commencement date is accelerated by an ML holder.
1	APPEA	Chapter 4, part 4, division 3	Overlapping tenure - Hierarchy of preferences for	The White Paper sets out a hierarchy of preferences for compensation. The Bill does not refer to this hierarchy or the detailed	The department notes APPEA's concern regarding the hierarchy of compensation methods. It was the department's intention that the hierarchy of compensation methods be included in the regulation. In response to industry's concerns, the department is investigating options to clearly show the hierarchy of preferences

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			compensation	compensation principles, although there is a reference in the Bill to principles to be prescribed by regulation in relation to the minimisation of compensation liability and the calculation of compensation for lost production and replacement of infrastructure. Addressing the hierarchy of compensation in the regulation is not viewed as an adequate mechanism to capture this key component to minimise lost gas production to the petroleum resource holder and the State. The CSG party will in all likelihood need to source replacement gas to meet its contractual sales obligations. This key component to the hierarchy of preferences for compensation should be captured in the legislation and not the regulation.	(i.e. mitigation of loss, replacement gas and financial compensation).
		125	Overlapping tenure - Acceleration notice	The Bill does not clarify whether there is a minimum period of notice before mining can commence in an IMA/RMA where an acceleration notice is given. APPEA submits that such clarification should be made in the Bill.	The department notes APPEA's concern regarding the minimum period of notice to commence mining when an acceleration notice is given to the petroleum resource authority holder. The maximum and minimum period of notice before mining can commence in an IMA and RMA is provided for in clause 125(3) of the Bill.
		126	Overlapping tenure - Surrender of sole occupancy following completion of mining activities and management of rehabilitation.	The Bill provides that the ML holder may give an abandonment notice when it no longer requires sole occupancy for the whole or part of an IMA or RMA for an overlapping area. The Bill does not refer to flexible rehabilitation arrangements for successive land use. Sole occupancy is not exclusivity. CSG rights have the potential to resume after mining activities have concluded and overlapping rights are not extinguished. Placing an obligation on the ML holder to provide advice at a point following rehabilitation of the relevant area by the ML holder or to negotiate for CSG activities to resume at an earlier date if convenient, allows for a resumption of CSG rights under its petroleum resource authority. Therefore it is important that	The department notes APPEA's concerns with the current drafting of this clause and will give it further consideration and seek further advice from the Department of the Environment and Heritage Protection on this matter.

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				existing obligations under an environmental authority take account of the potential for secondary land use. The PL holder could, for example, assume the obligation for rehabilitation requirements of delineated areas and the ML holder could do likewise for the PL holder in delineated areas that are to be mined through. APPEA understands DNRM is considering necessary amendments in consultation with DEHP to apply to the Environmental Protection Act but is yet to see proposed amendments. APPEA would like to draw attention in this circumstance to the streamlined model conditions for petroleum activities relating to overlapping tenure administered through the Department of Environment and Heritage Protection (DEHP).	
		127	Overlapping tenure - Agreed co-development plans under a Coordination Arrangement between overlapping production lease holders	The White Paper recognises that agreed co-development plans under a Coordination Arrangement between overlapping production lease holders, and approved by the Minister under the Petroleum and Gas (Production and Safety) Act 2004, will remain in force unless the parties agree to opt into the new regime. The requirements of s127 describing the mandatory content of a joint development plan are therefore not necessarily consistent with the White Paper in respect to there being a defined IMA/RMA/SOZ concept. A bespoke joint development plan does not necessarily describe joint development using these terms or concepts. A bespoke joint development plan does not necessarily describe joint development using these terms or concepts.	The concepts of IMA and RMA and their identification are central to the framework contained in the White Paper, and therefore the Bill, and links to parties' rights to compensation and alternative dispute resolution under the legislation. The department notes APPEA's comments regarding the need for flexibility and is investigating options to resolve the matter.
		131 and 142	Overlapping tenure - Exploration activities outside of the IMA, RMA and SOZ, undertaking activities	The Bill provides that a Petroleum Resource Authority (PRA) Holder and an ML holder may carry out an authorised activity in an overlapping area only if the activity is consistent with each agreed joint development plan that applies to the relevant holder (ss 131(2); 142(2)).	It is a condition of all resource authorities that the holders have and comply with the relevant work program or development plan when carrying out authorised activities in the area of the authority. The department does not consider that clause 131(2) limits the rights of an ATP or PL holder to undertake authorised activities outside the area of an IMA,RMA or SOZ, provided these authorised activities undertaken

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			outside of these areas	It does not take into account the agreed industry position that the PRA holder may undertake authorised activities outside the area of the IMA/RMA/SOZ at any time at its own discretion (subject to not adversely affecting safe and efficient production activities of the overlapping production tenure). The PRA tenure holder shall have advance notice before an IMA/RMA/SOZ takes effect and will otherwise have unfettered rights to conduct CSG-related activities on the basis that PRA tenure holders can be everywhere that ML holders are not. The CSG activities undertaken outside the IMA/RMA/SOZ are subject to the relevant SSM. Where a PL is granted after the commencement of the new provisions and subsequent to its grant, an ML is granted, then section 131(2) seems to require the PL holder to cease any activities until there is an agreed joint development plan with the ML holder as the activities under the PL would otherwise not be consistent with an agreed joint development plan. APPEA respectfully deems that the PRA holder should be entitled to commence or continue authorised activities under the PRA unless and until there is an agreed joint development plan.	by the ATP or PL holder are consistent with the agreed joint development plan. Section 131(2) does not affect the right of an ATP or PL holder to continue to carry the authorised activities for the petroleum resource authority under their work program or development plan until such time that an agreed joint development plan is lodged. Only once the agreed joint development plan is in place (i.e. agreed to and lodged under section 127) is the ATP or PL holder obligated to comply with the agreed joint development plan under section 131(2). The provisions in question have no impact on the agreed industry position that the PL holder may undertake authorised activities outside the area of the IMA, RMA or SOZ (safety and health obligations applying). The same applies to the ML holder under clause 142(2) of the Bill.
1	APPEA	Chapter 4	Overlapping tenure - How ICSG was to be offered by the ML holder to the overlapping PRA holder, the ability in certain circumstances of the PRA holder to refuse, contribution by the PRA holder to extraction costs, and a	Certain matters concerning what the contract for supply of ICSG must contain are to be specified in regulations. (White Paper 3.11.3) The petroleum tenure holder accepting the ICSG must pay the royalties under the MRA.	The department will continue to work closely with APPEA and other key external stakeholders during the development of the regulation to ensure the regulation reflects the intent of the White Paper and remains relevant. The royalty liability for incidental coal seam gas currently lies with the producer of the gas. It is not proposed that this should change.

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			requirement to re-offer the ICSG on an annual basis.		
		135	Overlapping tenure - Periodic offers of Undiluted ICSG must be made	Section 135 of the Bill only requires this to be done if ML holder does not use ICSG within 12 months of making the offer to the overlapping petroleum tenure holder. The White Paper articulates that as part of the trade-off associated with the 'right of way' principle for coal is that the ML holder must offer any ICSG produced from an area of sole occupancy (IMA and RMA) to the overlapping PRA holder at no cost other than a contribution to the costs of producing the ICSG. Where the PRA holder has declined its first right of refusal to the initial offered supply of undiluted ICSG, the ML holder must re-offer undiluted ICSG on an annual basis unless and until the ML holder develops a plan to use or commercialise the ISCG. (White Paper 3.11.15). Section 135 should include the wording 'make a reasonable' in the wording of s135 (1) to read "An ML (coal) holder must make a reasonable offer to supply…". The definition of 'reasonable' should be included as part of s135 to include the parameters described in the White Paper at section 3.11.3.	The department notes APPEA's concerns regarding first right of refusal for incidental coal seam gas. The department is investigating options to clarify the application of this clause. The department will ensure that they continue to engage with APPEA and other industry stakeholders on the development of these operationally complex provisions of the Bill and any subsequent regulation development.
		135	Overlapping tenure - Offers for ICSG are to be made for a single transfer point and that costs beyond this transfer point are borne by the gas party	The White Paper provides that offers for ICSG are to be made for a single transfer point and that costs beyond this transfer point are borne by the gas party. (White Paper 3.11.3) The Bill does not include this specification. Although the contract for the supply of gas must include matters prescribed by regulation. The contract for delivery of the ICSG would form statutory criteria (although alternative arrangements may be made). The contract of delivery will require the parties to negotiate	The department will continue to work closely with APPEA and other key external stakeholders during the development of the regulation to ensure the regulation reflects the intent of the White Paper and remains relevant.

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				for either class of ICSG to be supplied on an agreed volume, quality and deliverability basis to align with the disposal facilities provided by the PRA tenure holder. Any ICSG offered to the PRA holder is to be offered at a single transfer point for each class of ICSG with the cost of transferring the gas from the transfer point to be borne by the PRA holder. In the event the PRA holder accepts a first right of refusal offer but is unable to take the gas then the ML holder may recover the costs it subsequently incurs in disposing of such gas (including carbon costs, royalties and any essential capital investment it makes in facilities to deal specifically with this contingency).	
1	APPEA	146	Overlapping tenure - Land access principles between an ML holder and CSG tenure holder	Land access has only been partly addressed with respect to the overlapping of an ATP with a ML (section 146). The provisions do not deal with land access for overlapping production tenures where a production tenure holder (or a related entity) owns the underlying land. The Bill should be amended to reflect this.	The department agrees with APPEA's comment. The department is investigating options to apply the expedited land access provision to both an ATP holder and PL holder.
		147	Overlapping tenure - Overriding obligation on both coal and CSG tenure holders to exchange relevant operational and planning information.	Section 147(1) of the Bill is too wide and imprecise in respect of the information the overlapping tenure holders need to exchange. The obligation should be limited to the specific types of information in section 147(2) of the Bill (and as prescribed under the regulation).	The department notes the views expressed. However, the department is concerned that if clause 147(1) is narrowed that it could have the unintended consequence of excluding a particular type or types of information that the parties consider falls within the information exchange obligation. The same rationale applies to the drafting of section 147(2).
		155	Overlapping tenure - Minor Gas Infrastructure	The definition of "PL minor gas infrastructure" does not include the minor facilities associated with, and servicing, Major Gas Infrastructure, where the Major Gas Infrastructure itself does not require relocation. The Technical Working Group for Compensation describes the agreed position between coal and coal seam gas as	The department thanks APPEA for its comments on this clause. It does appear there is an error in the current drafting of clause 155(d). The department is working to resolve the matter.

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				including “minor facilities associated with, and servicing, major gas infrastructure, where the major gas infrastructure itself does not require relocation”. This is to be added to the definition of ‘PL minor gas infrastructure’.	
		161	Overlapping tenure - If a CSG tenure holder does not accept Undiluted ICSG validly offered to the ML holder	The White Paper provides that if a CSG tenure holder does not accept Undiluted ICSG validly offered to the ML holder, then any compensation liability of the ML holder will be reduced by the amount of Undiluted ICSG offered except to the extent that it is not practicable for the CSG tenure holder, acting reasonably, to provide ICSG off-take infrastructure capacity aligned with the offered supply. (White Paper 3.11.4) The Bill does not include this carve-out. Rather it simply provides that an ML holder’s compensation liability to a PL holder is reduced to the extent the undiluted CSG offered to the PL is not supplied to the PL holder because the offer is not accepted. There may be instances where it is simply not practicable for the PRA tenure holder to provide ICSG off-take infrastructure capacity to align with the offered supply. Such circumstances include the ability for the PRA tenure holder to transport the ICSG for subsequent processing due to a lack of transmission infrastructure in the area and the prohibitive or uneconomic cost or timeframe necessary to construct the necessary pipeline infrastructure.	The department is investigating options to clarify the current provisions in the Bill in this regard.
		162	Overlapping tenure - Reconciliation for subsequent recovery of lost production where compensation for lost gas has been previously paid	Section 162 of the Bill recognises the concept of a reconciliation payment but also provides at section 162(2)(b) as an alternative ability for the PL holder to give the ML holder an amount of coal seam gas that is equal to the amount of coal seam gas recovered. This is likely not practical or preferable by either party and should be removed from the Bill. This is likely not practical or preferable by either party and	The department notes APPEA’s concern that reconciliation payments to an ML holder may be through replacement gas. However, the final Technical Working Group paper on compensation provides that a form of reconciliation payment that a PL holder may make to an ML holder is replacement gas. Clause 162 has been drafted to reflect this industry agreed position.

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				should be removed from the Bill.	
		N/A	Overlapping tenure - Code of Practice for hazard minimisation	The Bill does not allude to the Code of Practice for hazard minimisation in relation to gas drainage. This may be dealt with in regulations. Even if the Code is ultimately set out in the regulations, the Code may still need to be enshrined in the Act itself to effect compliance.	As the code would refer to the safety and health component of the new overlapping tenure framework, the head of power for the code would be contained in the relevant safety and health legislation.
		Chapter 4, part 4, division 4	Overlapping tenure - Disputes under the new overlapping tenure regime would be resolved by expert determination	Need to ensure the Mine Safety Bill addresses reference of disputes on hazard minimisation or safety to arbitration.	The department notes APPEA's comments on this matter.
		Chapter 7	Overlapping tenure - Transitional Arrangements	The White Paper proposed that existing production tenements and future overlapping applications would remain subject to the existing overlapping tenure regime with a right in the parties to opt-in. Chapter 7 Division 3 and Division 4 does not take into account the circumstance for transitional applications where lodged and consented to by the overlapping exploration tenure holder, or where the other party lost the right to seek a preference decision because it either did not have the prerequisite knowledge of its resource or it failed to comply with its obligations under sections 313 and/or 314 of the P&G Act or sections 318AW and 318AX of the MRA. The initial lease application must be accorded its legislative rights accrued under the P&G Act or MRA and be given priority. That is, where the overlapping exploration holder has foregone its rights the provisions described under the Bill should not apply and the lease should be granted without further reference to the overlapping exploration tenure holder. The exception being that the overlapping exploration tenure holder may continue to explore under its exploration tenure	The department notes APPEA's concern regarding the transitional provisions for production applications in the Bill. Please note that clause 227 of the Bill provides that an application for a PL that overlaps an EPC or an MDL (coal) and is undecided at the commencement of Chapter 4 will be granted under the new overlapping regime. The new overlapping tenure framework also allows the underlying EPC holder or MDL (coal) to continue to undertake authorised activities. It is also important to note that there is no requirement for an agreed joint development plan in these circumstances.

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				where its activities do not adversely affect safe and efficient production activities on the overlapping production lease as described in the White Paper [3.3.5].	
2	Queensland Law Society (QLS)	Chapter 2	Dealings, caveats and associated agreements	Supports the harmonisation of the regulatory framework for dealings, caveats and associated agreements. Consolidation is a sensible outcome and is generally supportive of the substantive changes.	The department thanks QLS for their support of the proposed amendments.
		23	Dealings, caveats and associated agreements – Additional matters	The QLS makes the following observations in respect to the issues the MERCP Bill does not address and to which further consideration should be given: • Harmonisation of provisions relating to the transfer of applications for resource authorities (including to provide for the transfer of applications for mining authorities other than mining leases) as highlighted in the Industry Consultation Paper on Modernising Queensland's Resources Act Program - Dealings, Caveats and Associated Agreements dated July 2013. • The lapsing of indicative Ministerial approvals for reasons beyond the resource authority holder's control (e.g. delays in other regulatory approval processes or applicable assessments for transfer duty).	The adoption of an 'application transfer' model as is currently available under the *Mineral Resources Act 1989* (MRA) for mining lease applications was contemplated. However, through the drafting process it was identified that an 'amending application' process similar to those currently in place in each of the other resources Acts is a more appropriate mechanism. Transfer of applications for the petroleum and gas sector is currently possible through applicable 'application amendment' provisions in the *Petroleum and Gas (Production and Safety) Act 2004* and *Petroleum Act 1923.* Clause 486 and 526 of the Bill amend the respective sections in these Acts to make this process quicker and more readily usable by the petroleum and gas sector. Currently, applications for petroleum leases where a change of applicant is required, must be approved by the Minister. As a matter of administrative efficiency, this decision is usually made when the application is being decided by the Minister, which may be some time after the application is lodged. Under the proposed changes in the Bill, this may now be done by the chief executive (or delegate) allowing the applicant change to be more readily effected. Under proposed section 23(4)(b) the period for which the indicative approval remains valid is proposed to be prescribed by regulation and can be considered during consultation in its development.
		36	Land access – Making of Land Access Codes	The QLS submits that: the expression "one or more codes for all Resources Acts" (emphasis added) has the effect that it is not possible to make different land access codes for different Resources Acts. The QLS suggests the expression should be "one or more codes for all or any Resources Acts".	The intent of the land access code amendments is to instil greater flexibility to use codes for the land access framework. While the department is of the view the Bill reflects the government's policy position, the department will take the recommendation under consideration.

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		38	Land access – Entry for authorised activities requires entry notice	The QLS states that: entry notices are now to be required to cross access land (section 38). The QLS queries whether this is practical given that access land generally consists of formed tracks.	It was not the intention of the program to expand the notification requirements to access land. The department will take the query under consideration.
		40	Land access – Entry notices	The QLS states that: In respect of section 40(1)(a) to (f), the Society has previously commented that the use of the word "or" after each sub-paragraph has the effect that an entry notice is required if two or more of 40(1)(a) to (f) apply. The Society suggests that in the third line of section 40(1), the word "if' be deleted and the words "if any one or more or all of the following apply."	The department considers that this clause achieves the policy intent.
		40(1)(c)	Land access – Entry notices	The QLS submits that: Reference to the Land Court 'considering' an application is unclear and should be amended to refer to when an application is made and served on the respondent.	It was not the policy intent for an application to the Land Court under the relevant section to exempt a resource authority holder from providing an entry notice to an owner or occupier. In ensuring consistent terminology has been used when consolidating the land access requirements from the resources Acts, this provision has inadvertently been added. The department will seek to rectify this drafting error.
		40	Land access – Entry notices	The QLS submits that: For section 40(3), the reference to "enforceable" suggests that "rights" can exist that are not enforceable, thus casting doubt on the meaning of the entire paragraph. The Society suggests that the words be changed to "enter land, means a right to enter the land under any law, including under a common law or equitable right, but does not include a right to enter the land under this Act or a Resources Act."	The drafting of the provision has been modernised from the existing resources Acts which only refers to a "right". This "right" is further clarified by the Bill under clause 40(3) as an "independent legal right" which is a right to enter land that is enforceable under any law, including common law right, but does not include a right to enter the land under this Act or a resource Act. A contractual arrangement is provided as an example.
2	Queensland Law Society (QLS)	43(1)	Land access – Entry for advanced activities requires agreement	The QLS submits that: The drafting of section 43(1) of the Bill suggests that all of the relevant owners and occupiers must have the same type of agreement. It does not accommodate owners and occupiers holding different types of agreements. This issue could be addressed through a simple drafting amendment.	The policy intent for this requirement is that the resource authority holder has an appropriate arrangement in place with each owner and occupier, prior to accessing the land to undertake advanced activities. The provision should provide flexibility to accommodate the preference of each individual owner and occupier and not force them into agreeing to a single agreement or type of agreement. The Explanatory Notes to the Bill clarifies this policy intent. However the department will take the recommendation under consideration.

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		43(1)	Land access - Exemption from the requirement to have a CCA	Seeks clarification on when the "Land Court" exemption applies for the need to have a conduct and compensation agreement (CCA). The Bill states that the exemption applies when the matter is being considered by the Land Court.	There is no intent to change the CCA exemption where a Land Court application has been lodged. The terminology used is a result of the drafting style adopted by the Bill in consolidating the land access provisions from across the resources Acts. While the clause specifically mentions that an application has been made, it is acknowledged that some may find the addition of the word 'considering' introduces some uncertainty. The department will take the comments under consideration.
		Chapter 3, part 2, division 4, subdivision 2	Land access – Access rights and access agreements	QLS recommends that access agreements should be in writing only and therefore the provision should be amended to remove the reference to oral agreements.	This provision has been migrated across from the existing resources Acts and only relates to crossing land to access the area of the resource authority, not resource activities. The ability for the agreement to be made orally or in writing ensures that there is sufficient flexibility in the framework to accommodate different access scenarios. The framework allows the parties to decide how to record their agreement based on the nature and duration of the activities required for access. To amend the requirements to mandate all agreements be in writing is likely to introduce an unnecessary regulatory burden for the parties.
		49	Land access – Criteria for deciding whether access is reasonable	The QLS suggests that the drafting of the provision does not achieve the intended policy objective. If the intent is that formed roads must be used first then this section does not achieve this.	This provision has been migrated across from the existing resources Acts and maintains the status quo. It is not intended to create an order of precedence that formed roads must be used before a new road is created, only that the reasonable possibility of using an existing formed road should be considered.
		52	Land access – Power of Land Court to decide access agreement	The QLS submits that: The words "if a dispute arises" in section 52(1) are unclear. For example: if there is a failure to agree, has a "dispute arisen"? If the owner or occupier claims that the matters in sections 49(2) and (3) have not been considered, does the Land Court have jurisdiction?	This provision has been migrated across from the existing resources Acts and maintains the status quo. The clause provides for either a resource authority holder or an owner/occupier to apply to the Land Court if a dispute has arisen between the parties about whether access is reasonable under clause 49(1). A 'dispute' arises when the owner/occupier disagree that the resource authority holder should access the land, disagree on the activities proposed to allow crossing of the land, or that the owner or occupier refuses to make an access agreement at all.
		55	Land access – Right of access for rehabilitation and environmental management	The QLS submits that this section does not deal with rehabilitation post expiry of the resource authority.	This provision has been migrated across from the existing resources Acts and maintains the status quo. It provides access to land under a resource authority for environmental management and rehabilitation. The point raised is acknowledged however any amendment of this provision should not be undertaken without a review of the broader tenure management and environmental licencing framework.

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		57 and 58	Land access – Periodic entry notices for entry to public land	The QLS states: In section 57(1), "periodic entry notice" is defined as "the first notice about an entry, or series of entries, to public land". Consequently, after the initial entry or series of entries it is not possible to give a further entry notice (as the "first" notice will have been given). Consequently none of the following sections in part 3, division 1 can apply, and in effect there is then no process for entry to public land. The Society recommends that section 57(1) be amended by changing "first" to "first and any subsequent".	The terminology used is a result of the drafting style adopted by the Bill in consolidating the land access provisions from across the resources Acts. The public land access framework has been migrated from the existing resources Acts, with some amendments to ensure consistency across authority types and to respond to matters raised during consultation with stakeholder's prior to and during the development of the Bill. The interpretation offered by QLS is narrow in that it implies there can only ever be one period in which an entry or series of entries can be made. It is the department's view that the clause provides that an entry notice is to be given for an entry or series of entries for a given period, as implied by its definition as a 'periodic entry notice'. This particular requirement was clarified by this Bill in providing a consistent framework that the entry notice is only to be given at the beginning of each period, not every time the public land is entered. Nothing in the clause suggests that the entry or series of entries is restricted to one period.
		58(2)	Land access – Comply with section 58(1) despite being an applicant for the resource authority	The QLS submits: The drafting is well intended but does not work. It is clear from section 58, and section 57 on which its operation relies that a notice can be given only in respect of a "resource authority" and by a "resource authority holder". The Society considers that section 58(2) does not adequately overcome the absence at the point at which the notice would be given of a resource authority, and therefore of a resource authority holder.	While the clause specifically mentions that the notice relates to a resource authority and authority holder, the policy intention is that an applicant may give the notice in anticipation that the resource authority will be granted. Under the intended framework, the amendments would remove or decrease the potential delays for a resource authority holder to commence operations after the grant of the resource authority.
		61	Land access - Notifiable road use	The QLS submits: This division should be stated not to apply to a declared project under the *State Development and Public Works Organisation Act* (see *Mineral Resources Act 1989* section 318EM).	The Bill at clause 65 provides for a regulation to prescribe a resource authority or project as being exempt from the notifiable road use requirements. The intention is for declared projects under the *State Development and Public Works Organisation Act*, to be prescribed as exempt projects.
2	Queensland Law Society (QLS)	68	Restricted land – Point when it applies	The QLS states: It is preferable that restricted land applies at the date the resource authority application is lodged, rather than when granted.	The grant of a resource authority was set as the point in time when restricted land applies to achieve some compromise between the existing frameworks. This policy is intended to rationalise and to balance the interests of landholders with the proposed resource activity. There are advantages and disadvantages of when restricted land should apply. The current restricted land framework for the mineral and coal sector is inconsistent. For mineral development licences, mining claims and mining leases,

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					restricted land applies from the time the application is lodged. For mining claims and leases, restricted land is excluded from the grant if consent from the owner is not received before the last objection day. However, for exploration permits restricted land applies at any time. The same is true for the restricted land framework for geothermal tenures and the petroleum and gas sector with respect to the 600 metre rule. While it is possible that a building (other than a residence) may be constructed between the time an application is lodged and when it is granted, it still needs to satisfy the criteria for being restricted land (i.e. cannot co-exist and not be easily relocated). Any attempt to quickly construct a building to impede the applicant's proposal would need to meet these criteria. A landholder may have legitimate construction underway or planned when an application for a resource authority is lodged. As they have no ability to predict the lodgement of an application, in this case it would be reasonable for the landholder to have an opportunity to complete their intentions. For petroleum and gas operations, unlike a mineral or coal mine, the exact location of infrastructure is not as critical. This together with the likelihood of a landholder purposely going to the expense of creating restricted land successfully (to impede the applicant), the risk of this provision causing serious issues should be low.
		69	Land access – Who is the relevant owner or occupier	The QLS submits that: The definition of occupier should be restricted to someone who has a 'registered lease to occupy a primary dwelling'.	Occupiers have been included in the restricted land framework as it is not uncommon for houses located on large properties that are owned by another member of the family to be used as the primary residence without formal arrangements. Other occupiers would include tenants renting a house or a lessee of a business premises. A distance of 200 metres has been consulted on as a potential range for restricted land to apply. Any occupiers that have a right to occupy within such a relatively small distance should be readily identifiable in consultation with the owners.
		78(3)	Land access – Resource authority holder to notify new owner or occupier	The QLS submits that: The Bill requires an authority holder to notify a new owner or occupier, within 15 days of becoming aware of the change, of any notice or waivers that are in place regarding the entry to the land. QLS suggest that the cost for authority holders to conduct regular searches to determine any changes in ownership or occupancy would be	The clause maintains the status quo for this requirement that is currently within each of the resources Acts and therefore is not an increase in regulatory burden. Nothing in this clause obligates the holder of the authority to actively monitor changes in ownership or occupancy. The intent of the clause is that if the holder becomes aware, and this may occur if the new or previous owner of occupier chooses to notify the holder, then the holder

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				quite expensive. QLS recommends that the time period for the obligation to give notice should commence once the authority holder has been given written notice of a new owner or occupier.	has 15 business days (~3 weeks) to give a copy of the entry notice or waiver to the new owner or occupier. This allows the new owner or occupier to be aware of existing circumstances related to entry or waiver of entry if the previous owner has neglected to pass on these details.
		77	Land access – Agreements, notices and waivers not affected by dealing	The QLS states: it is unclear whether this provision also applies to conduct and compensation agreements, deferral agreements and opt-out agreements. This ambiguity has not yet been addressed. It is recommended that the section specify whether this is the case.	This provision does not apply to conduct and compensation agreements. Clause 93 binds successors and assigns to a CCA. The department is currently considering whether opt-out agreements should be binding upon successors and assigns. Deferral agreements are not binding upon successors and assigns and this is consistent with the existing framework.
		79	Land access – Access agreement binds successors and assigns	The QLS states: access agreements in clause 47 should be in writing only. Without these agreements being in writing the QLS suggests a likely conduciveness to dispute and uncertainty.	This provision has been migrated across from the existing resources Acts. The ability for the agreement to be made orally or in writing ensures that there is sufficient flexibility in the framework to accommodate different access scenarios. The framework allows the parties to decide how to record their agreement based on the nature and duration of the activities required for access. To amend the requirements to mandate all agreements be in writing is likely to introduce unnecessary regulatory burden for the parties.
		80	Land access – Compensation and negotiated access	The QLS states: The Society notes generally that "occupiers" should not be entitled to claim compensation in respect of the grant of mining leases, which should continue to be governed by the regime in chapter 6, *Mineral Resources Act 1989* as it stands.	Chapter 6 of the *Mineral Resources Act 1989* provides for the compensation requirements for a mining lease. It was not the policy intent for the general liability to compensate provisions in chapter 3 of the Bill to apply to mining leases, mining claims and prospecting permits. However, in consolidating the land access requirements from the resources Acts, these authority types have inadvertently been captured. The department will consider an amendment to rectify this error.
		82(1)	Land access – Notice of intent to negotiate	The QLS suggests that the drafting of the provision does not achieve the intended policy objective. The drafting is circular and requires an eligible claimant to suffer an impact prior to a notice for intention to negotiate being issued.	This provision has been migrated across from the existing resources Acts and maintains the status quo. The Bill, through clause 80, defines “eligible claimant” as “each owner and occupier of private land or public land that is in the authorised area of, or is access land for, the resource authority”. This definition does not require the eligible claimant to suffer an impact. The notice of intention to negotiate is not dependent on an eligible claimant having

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					suffered from an impact before it can be issued.
2	Queensland Law Society (QLS)	83	Land access – Negotiations	The QLS recommends that a "without prejudice" provision be added to clause 83 for conduct and compensation agreement negotiations.	This provision has been migrated across from the existing resources Acts and maintains the status quo. Actions protected by 'without prejudice' cannot be tabled and scrutinised by the Courts. Therefore the Court's jurisdiction would effectively be limited if the QLS suggestion were adopted. Further, the suggested amendment would also prevent the government from implementing the recommendations of the Land Access Implementation Committee.
		86(2)(b)	Land access – Parties may seek conference or ADR	The provision provides uncertainty, where one party does not "agree" to the ADR when called upon. The QLS suggest that a party to an unsuccessful negotiation be entitled to specify the proposed ADR.	Unresolved legal questions have arisen as a result of *Australia Pacific LNG Pty Ltd v Golden & Ors* [2013] QCA 366 regarding what occurs when a party does not agree to an ADR process as elected by the other party as per clause 86(2)(b) (which reflects the current Resource Acts). The department is currently investigating potential solutions.
		90	Land access – Particular agreements to be recorded on titles	QLS seek clarification why the requirement to note agreements upon title does not extend to access agreements and deferral agreements.	Deferral agreements are not included as agreements requiring notation on title as they are not binding upon successors and assigns under clause 93(1), which has been migrated from the resource Acts and maintains the status quo. Access agreements are binding upon successors and assigns (clause 79), but as the agreements detail the access of land for the purposes of reaching authorised areas, can involve extremely short periods of time, and do not involve the carrying out of resource activities, requiring notation on title is unnecessary. The department is currently considering whether opt-out agreements should be included within clause 93 as binding on successors and assigns.
		90	Land access - Particular agreements to be recorded on titles	QLS seek clarity regarding how clause 90(3) will apply where the ending of an agreement is subject of a dispute.	Clause 90(3) requires a resource authority holder to give the titles registrar, within 28 days of the agreement ending, the necessary notice. All agreements will be required to stipulate within their conditions the period for which the agreement will have effect. If a dispute arises over the end date of the agreement, general avenues of contract dispute resolution such as mediation, arbitration and litigation will apply and resource authority holders, if required, will need to remove the particulars on the title within 28 days of resolution of the dispute.
		94	Land access – Land Court may decide if	The QLS states: In section 94(2)(c) the "eligible party" could be either the land holder or the resource authority holder	The department will take the recommendation under consideration.

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			negotiation process is unsuccessful	(see section 94(5)). Therefore the reference to "eligible party's land" makes no sense, unless "land" is intended to refer also to a resource authority. It would be more appropriate to refer to the "eligible claimant's" land. The Society understands that the addition of the new section 94(2)(c) is to clearly enable the Land Court to determine not only compensation but also conduct conditions. However, this is not what the section says – it goes much further by referring to "obligations or limitations". Consequently, it is open to the Land Court to in effect change conditions on which the resource authority was first granted. The Society suggests that rather than referring to "obligations and limitations", it would be clearer and more helpful to the parties if reference were made to the matters in section 81(1)(a) and (b), they being the proper subjects of conduct and compensation agreement on which the Land Court is effectively to rule.	
		Schedule 2	Land access – Definition of occupier	QLS is concerned that the definition of occupier is extremely broad and may cause difficulty for authority holders to identify.	The definition of occupier has been transferred unchanged from the existing resources Acts and was drafted to accommodate the broad range of occupation rights that may exist for land. At the public hearing before this Committee into the then Mining and Other Legislation Amendment Bill, QLS also suggested a two stage test in relation to the second part of that definition. The Minister undertook to further investigate that possibility. The department advises that rather than undertake further amendment of the definition, it is proposed that a practice manual be developed under the Common Resources Act that provide further clarification on what steps an applicant must take to identify occupiers of the land the subject of the tenement application. The department believes that this would address the QLS's concerns.
		Chapter 4	Overlapping tenure – Limited time available for consultation	The QLS states: The Society remains concerned that the timing allowed for consultation and implementation of the coal and coal seam gas overlapping tenure regime within the MERCP Bill is insufficient to allow for the necessary	The department thanks Queensland Law Society for its submission and notes the views expressed relating to the short timeframes given for consultation on the Bill. The department will ensure that they continue to engage with key industry stakeholders on the development of any proposed amendments to the Bill and any

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				assessment of the framework and structure of the proposed legislation as a whole.	subsequent regulation development.
		Chapter 4	Overlapping tenure – Incomplete regime	The QLS submits: The MERCP Bill provisions do not reflect the entire proposed regime [White Paper]. The Society understands that the Government's intention is to resolve the gaps and outstanding structural matters that form part of the White Paper solution, including those relating to the Code of Practice and to health and safety requirements, but also some of the 'unresolved' White Paper issues concerning transitional arrangements in regulations and in future legislation and legislative amendments. While the Society encourages the process of clarifying uncertain provisions and ensuring that the legislation regime is complete, we are concerned that such significant matters are not settled and included in the MERCP Bill. It is clearly undesirable for legislation to be introduced with flagged further structural provisions and amendments required to reflect a complete regime. While acknowledging the Government's stated intent that the new regime will not commence until the further provisions are in place and regulations settled, such a position creates uncertainty for those persons affected. The Committee expects that this outcome is the result of the short timeframes under which this legislation was developed. We submit that it will be vital that satisfactory consultation occurs on the introduction of the further legislative provisions and regulations.	The department thanks the Queensland Law Society for its submission and notes the views expressed relating to the short timeframes given for consultation on the Bill. The department will ensure that they continue to engage with key industry stakeholders on the development of any proposed amendments to the Bill and any subsequent regulation development.
		150 and 151	Overlapping tenure – Ministerial powers	The QLS notes that the Ministerial powers provisions contained in the MERCP Bill no longer include the power to amend resource authorities. Further, these provisions now include a set of criteria which the Minister must consider prior to requiring a resource authority holder to amend an agreed joint development plan. The Committee welcomes this response from Government. While the changes made are encouraging, the provisions still	The department notes Queensland Law Society's concerns regarding the Minister's powers under chapter 4. The clause is drafted consistent with the government's policy position. However, the department is investigating options to expand the matters the Minister must consider in deciding whether to require an amendment to an agreed joint development plan under clause 150(2). The department is also investigating further potential options for affected parties to appeal the Minister's decisions.

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				raise concerns for the QLS and do not appropriately address all concerns raised by the QLS in its original submissions. The power of the Minister to require amendment of agreed joint development plans continues to remain a potentially significant issue of sovereign risk, and the criteria which were drafted with the intention of limiting that power provide little certainty regarding its exercise. This power has the potential to undermine and modify established and negotiated commercial arrangements and to do so with no compensation to the parties affected. Further, this power is still not time-bound in the sense that the Minister may exercise it at any time after rights have been granted and joint development plans settled, and parties have entered into commercial and operating arrangements in reliance on those rights and joint development plans. The QLS submits again that these powers should be more limited and made subject to time limitation for their exercise (e.g. within a certain period of a joint development plan being settled). Further, the legislation must provide some clear means for affected parties to appeal the Minister's decisions.	
		Chapter 4 and Chapter 7, part 4	Overlapping tenure – Transitional provisions	The QLS submits that the transitional provisions for overlapping tenure suffer from incompleteness and relegation to subsequent legislation. The QLS states: In their present state the transitional provisions create a number of serious inconsistencies between the positions of coal and coal seam gas resource authority holders. There is still no provision for overlapping concurrent production applications. Further, the provisions as drafted are insufficient to ensure that the existing rights and commercial arrangements of parties are not unreasonably interfered with. DNRM has indicated that it is investigating these concerns and will amend these provisions as required. We submit that the development of the transitional provisions of the MERCP Bill is vital to the successful and equitable operation of the overlapping provisions, and stress that the positions outlined in the White Paper were the result of significant time and expense by stakeholders to negotiate a	The department notes Queensland Law Society's concern regarding concurrent applications and transitional provisions. The department has been working closely with industry in developing a policy position for concurrent applications. It is not the department's intention to have the Bill impact on existing commercial arrangements of resource authority holders. The department has been working with industry to investigate options to resolve this matter. The new overlapping tenure framework will have no impact on existing statutory agreements (i.e. coordination arrangements) that have been approved by the Minister and are the relevant arrangement to overlapping production resource authorities under the existing framework. The existing framework provided in the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production & Safety) Act 2004* will continue to apply to a coordination arrangement in this scenario.

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				legislative scheme appropriate for Queensland's coal and coal seam gas industries.	
		Chapter 9	Notification and objections	The QLS submits that it supports the simplification of mining lease application, notification and objection processes.	The department thanks the QLS for its support.
3	Queensland Resources Council (QRC)	3	MQRA Program	Largely supportive of the legislative amendments in chapter 2 but their successful application is highly dependent on the regulations yet to be drafted.	The department thanks QRC for their support of the proposed amendments and notes their interest in the development of regulations.
		18	Dealings, caveats and associated agreements – Prohibited dealings	Seek clarification that prohibited dealings do not void or prohibit commercial arrangements. Concerns are exactly the same as those presented to the Committee in 2012 by QRC and Freehills.	Submissions to the Committee's inquiry into the Mining Legislation (Streamlining) Amendment Bill 2012 also raised issues with the drafting in that Bill on this issue. In their submission to that inquiry, Freehills recommended that the prohibited dealings section (as drafted) be amended to exclude the words "has the effect of". This was because of concerns the draft provision prohibited a dealing that "has the effect of" transferring a divided part of a resource authority. It was feared that this would void any commercial agreements where a holder had provided a third party with access to undertake activities on a particular area of the authority (i.e. had the effect of transferring). In such a case, the registered holder for that area still retains legal responsibility under the resources Acts. This issue was reviewed and an amendment was made to the respective prohibited dealings provisions by the *Mining and Other Legislation Amendment Act 2013* to remove the words "has the effect of". As such, the transfer of legal ownership of a divided part of a resource authority area is currently prohibited under the dealings provisions in each of the resources Acts and this policy is proposed to continue under clause 18 of this Bill. However, as clarified in the Explanatory Notes, any commercial agreement or transaction that does not transfer legal ownership is not prohibited. To transfer legal ownership, the Minister would need to approve the transfer and the change in ownership recorded on the register. If the transaction or commercial agreement does not attempt to do this for the area, then it is not prohibited. The department agrees with the submitter on the policy intent; however there is some variance on the most appropriate way to draft the provision. Importantly, the drafting of clause 18 does not contain the words "has the effect of" that was central to the Freehills submission. Other than sentence structure, clause 18 uses the same language as the existing sections of the resources Acts.

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					For example, section 318AAQ of the *Mineral Resources Act 1989* reads: "A dealing with a mining tenement…that transfers a divided part of the area of a mining tenement is prohibited". In contrast, clause 18 reads: "The following dealings are prohibited—a dealing with a resource authority that transfers a divided part of the authorised area for the resource authority…"
3	Queensland Resources Council (QRC)	Chapter 3	Land access	Largely supportive of the legislative amendments in chapter 3.	The department thanks QRC for their support for the proposed amendments.
		Chapter 3	Land access - 600 metre rule	QRC understands that it was the Government's intention to remove the 600 metre rule and instead introduce related amendments for restricted land. The Bill does not appear to have removed the 600 metre rule. QRC requests clarification on this proposal.	Currently under the Land Access framework an authority holder must not carry out an advanced activity unless each owner or occupier has entered into a conduct and compensation agreement. The current definition of preliminary activity excludes activities within 600 metres of an occupied residence or school, which effectively makes these activities 'advanced'. Definitions of preliminary activities in each of the existing resources Acts are amended by the Bill to remove this exclusion from the definition of preliminary activity. However, an error in clause 355 has failed to remove this from the definition for the *Mineral Resources Act 1989* and should be amended. The department will consider recommending amendment of the Bill.
		93	Land access - Compensation not affected by change in administration or of resource authority holder	Questions the inconsistency between the provisions that bind successors to CCAs for private land and access agreements for off-tenure access which includes *successors in title*, and suggests an amendment to reconcile the two provisions.	The department thanks QRC for identifying this inconsistency that has resolved from migrating provisions across from the existing resource Acts under this Bill. The department will take this recommended change under consideration.
		93	Land access - Compensation not affected by change in administration or of resource authority holder	Suggests an amendment to clarify that opt-out agreements are binding upon successors and assigns.	The department is currently considering whether opt-out agreements should be included within clause 93 as binding on successors and assigns.
		93	Land access - Compensation not affected by change in	Suggests amendments to the Land Title Act to stipulate that CCAs and opt-out agreements are exceptions to	The legislative framework does not create an interest in the land, greater than the right to access the mineral or energy resource. The department considers that the Bill maintains the status quo in this respect and provides adequate direction that

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
			administration or of resource authority holder	indefeasibility.	CCAs are binding on successors and assigns. Therefore it is not considered amendments to the *Land Title Act 1994* are necessary.
		43	Land access – Land Court consideration	The QRC submits: The wording in section 43(1)(d) introduces uncertainty as to the timing for access to private land for resource authority holders by proposing that access only be permitted once an application relating to the land under section 94 is "being considered" by the Land Court. QRC recommends more clarity in the drafting by replacing the words "being considered by" in section 43(1)(d) with the word "to". Additionally, the word "considering" also raises questions on timeframes in respect to sections 40(1)(c) and 43(1)(d) of the Bill. Does the word "considering" in section 40(1)(c) mean that the Land Court proceedings must have reached a certain stage before that subsection applies? QRC suggests some further clarification about the meaning of "the Land Court is considering" would be helpful.	There is no intent to change the CCA exemption where a Land Court application has been lodged. The terminology used is a result of the drafting style adopted by the Bill in consolidating the land access provisions from across the resources Acts. While the clause specifically mentions that an application has been made, it is acknowledged that some may find the addition of the word 'considering' introduces some uncertainty. The department will take the recommendation under consideration.
		86	Land access – Alternative dispute resolution	This provision enables one party to "call upon the other party to agree" to an ADR process. However there is no further clarification if the other person does not agree. The Bill only provides recourse if the other person fails to attend the ADR. QRC seeks clarification to prevent a unilateral declaration for ADR occurring given a recent decision by the Queensland Court of Appeal.	Unresolved legal questions have arisen as a result of *Australia Pacific LNG Pty Ltd v Golden & Ors* [2013] QCA 366 regarding what occurs when a party does not agree to an ADR process as elected by the other party as per clause 86(2)(b) (which reflects the current resource Acts). The department is currently investigating potential solutions to provide clarification and if legislative amendment is required, will recommend amendments in a future Bill.
3	Queensland Resources Council (QRC)	100	Overlapping tenure – Bespoke arrangements	The QRC submits: The right to agree to alternative arrangements is recognised under section 100(2)(d) of the Bill as one of the mechanisms by which the purposes of Chapter 4 are to be achieved. However, there are no operative provisions (express of implied) within the remainder of Chapter 4 which grant tenure holders the ability to agree to bespoke alternatives to the default legislative regime.	The department notes the view expressed by the QRC on this issue. As acknowledged by the QRC in its submission, the department is continuing to work with the QRC and industry in general to ensure that the new overlapping tenure framework provides some flexibility for the parties to, in certain circumstances, enter into alternative arrangements to that established in the framework. The department is working with industry to investigate options to make it clear that the parties may agree to alternative arrangements to those prescribed in new overlapping tenure framework, except to the extent of certain prescribed aspects

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				While section 100(2)(d) will aid in the interpretation of the remainder of Chapter 4 of the Bill, in the absence of further provisions giving effect to the intention so expressed in section 100(2)(d), the legislative framework will be unduly restrictive. It was never the intention of industry for the White Paper principles (which form the basis of the Bill) to apply in all circumstances. The QRC further submits: The failure to include express mechanisms allowing parties to agree to alternative arrangements is a fundamental flaw in the Bill and must be addressed. Similarly, the fact that such a mechanism has not been incorporated into the drafting of the Bill poses difficulties for the practical implementation of a number of other aspects of the Bill (including for example the finalisation of Joint Development Plans (see section 7 below), grandfathering of existing arrangements and mechanisms for offsetting compensation liabilities). DNRM has acknowledged that this remains an outstanding issue and continues to work with industry in this respect. While QRC members acknowledge that there may be some aspects of the Bill that parties will not be able to contract out of, Government should ensure that the greatest degree of freedom is afforded to parties to negotiate arrangements suitable to the particular overlap circumstances. A suitable mechanism may therefore take the form of a blanket acknowledgement that the legislative regime does not limit parties from agreeing alternative arrangements, except to the extent of certain prescribed aspects which are required for the State to discharge its custodian obligations. Alternatively, specific provisions of the regime could be made subject to that which is otherwise agreed between the parties in individual circumstances.	which are required for the State to discharge its custodian obligations.
		Chapter 7	Overlapping tenure – Transitional arrangements	The QRC submits: The time allowed for consideration of the Bill has not been sufficient for QRC and its members to fully consider, and reach a consensus view on, the full suite of transitional arrangements.	The department does not support the removal of the transitional provisions from the Bill, but remains committed to working with industry to ensure that these provisions correctly reflect the industry agreed policy position prior to the commencement of the new overlapping tenure framework.

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				The QRC further submits: In light of the time constraints on industry's review of the Bill's transitional provisions, and this ongoing collaborative consultation process, QRC submits that the transitional provisions be removed from the Bill. This will allow further time for both all stakeholders to fully consider the transitional arrangements as proposed, and to provide considered feedback on these fundamentally important provisions. QRC proposes that these provisions be included in a later raft of amendments to the resources legislation (e.g. introducing expected health and safety reforms or at the time the draft regulations are prepared), prior to the commencement of the new legislative framework.	As the QRC would be aware, subsequent to the lodgement of its submission to AREC, the department is investigating options to resolve the matter, based on feedback received from industry via the QRC.
		Chapter 4	Overlapping tenure – Grandfathering of existing arrangements	QRC submits: The Bill does not include any express recognition of existing co-development or other commercial arrangements. DNRM have advised QRC that legislative provisions preserving existing co-development arrangements are unnecessary, as this is a commercial matter for the parties and not subject to statutory regulation. However, the QRC submits that this approach fails to acknowledge the advanced implementation of development and operational plans which have been agreed by many proponents. Significant investments have been made by industry on the basis of such co-development agreements which provide clarity and security with respect to the conduct of overlapping operations. As such, the QRC considers it imperative that there is an express preservation of these arrangements in the Bill. The preservation of existing arrangements is also not a simple matter of inserting provisions to give the parties the right to agree to bespoke alternatives. What is required is an acknowledgement of existing rights and obligations as determined between the parties and enshrined within the existing arrangement. It should also be noted that any preservation of existing arrangements will also require	The new overlapping tenure framework will have no impact on existing statutory agreements (i.e. coordination arrangements) that have been approved by the Minister and are the relevant arrangement to overlapping production resource authorities under the existing framework. The existing framework provided in the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production & Safety) Act 2004* will continue to apply to a coordination arrangement in this scenario.

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				amendments to the joint development plan provisions in Chapter 4, Part 2, Divisions 3 and 5 of the Bill to give effect to those plans which form part of the existing arrangement.	
3	Queensland Resources Council (QRC)	231-233	Overlapping tenure – Surat Basin Transitional Area	Under section 4.1 of the White Paper, it was acknowledged that industry were unable to reach a consensus position on the transitional treatment of existing production tenure applications. While the coal industry advocated that existing production tenure applications should be subject to the new legislative framework, the CSG industry proposed a mechanism which gave separate treatment to those applications within the Surat Basin. The CSG industry proposed that such applications, if granted within a 4 year transitional period, would be granted under the existing regime. The provisions currently found in sections 231-233 of the Bill represent DNRM's attempts at seeking a 'middle-ground' position. However, industry has not had sufficient time to fully consider the alternative as put forward by DNRM in the Bill and there are significant concerns the current drafting does not incorporate key elements of the broader White Paper framework (e.g. ability to agree to bespoke arrangements and preservation of existing arrangements) and that the provisions as drafted may work to the favour or detriment of individual companies. Given the significance of the issue to the development of coal and coal seam gas resources within the Surat Basin, DNRM has undertaken to further review and consider the transitional provisions in sections 231-233 of the Bill in conjunction with industry. The QRC endorses this approach and requests that Government allow sufficient time for these issues to be resolved.	The department appreciates that the matter of transitional arrangements for the Surat Basin geographical area is a contentious issue for the resource industry. This is evident in the fact that the parties failed to reach an agreed position on the matter in the White Paper and turned to government to resolve this matter. These particular transitional arrangements reflect the advice given to industry via correspondence dated 26 November 2013. The department agrees that the intent was that the parties can agree to a mining commencement date that is different to the statutory minimum. The department has commenced investigating options to clarify the application of the division and the ability of parties to come to an agreed mining commencement date different to that provided in section 232. It is the intent of clause 114(2) of the Bill to provide some flexibility for the parties to agree to a mining commencement date that is earlier than one that is provided in the transitional provisions (as well as in chapter 4). However, there seems to be issues of clarity and interpretation with this clause. Therefore the department is investigating options to clarify that the parties may agree to a mining commencement date different to that established in clause 232, therefore making clear the opportunity for the parties to negotiate a truncated notification period. The department understands that QRC and APPEA are in the process of leading further discussions with industry on this particular matter and will be providing additional advice regarding possible amendments to this division of the Bill in the near future.
		Chapter 7	Overlapping tenure – Concurrent production	QRC submits: Industry and DNRM are currently engaged in discussions with respect to finalising a position in relation to	The department agrees with the QRC that amendments are required to insert specific provisions regarding the transition of concurrent production resource

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			applications	concurrent production applications and have made considerable progress to date. It is understood that amendments with respect to concurrent production applications will be introduced in a subsequent legislative vehicle.	authority applications under the new overlapping tenure framework. The department notes that the QRC is leading discussions with industry to develop an agreed position on this matter and it is understood that the QRC is close to providing industry's position to the department.
		Chapter 4, part 4, division 3	Overlapping tenure – Compensation	QRC submits: Industry understands that Government's intention is to enshrine the compensation principles described in the White Paper in the regulations. QRC further submits: the following principles should nevertheless be clearly reflected in the legislation: • the CSG tenure holder has the burden of proof to substantiate any claim for compensation; • any compensation sought must not otherwise have been compensated (i.e. principle of no double-dip); • financial compensation is to be paid at the time the lost production would have otherwise occurred; and if mine development is delayed beyond the date set out in an acceleration/confirmation notice (other than for circumstances beyond the control of the ML holder), any additional costs incurred by the CSG tenure holder in response to the acceleration/confirmation notice (e.g. accelerated production) will be paid by the ML holder.	The department notes the QRC's comments regarding the development of the draft regulation and would like to assure the QRC that the department will continue to work in partnership with the QRC and with industry stakeholders in general, to ensure that the regulation correctly reflects the policy intent of the White Paper. The department is investigating options to provide a head of power in the Bill for the principles regarding compensation as raised by the QRC. The detail of these principles will be provided for in the regulation, which is consistent with similar clauses contained in the Bill.
		Chapter 4, part 4, division 3	Overlapping tenure – Compensation, hierarchy of preferences	QRC submits: While QRC acknowledges the preference of DNRM to provide a head of power in the Common Provisions Bill which will allow the compensation provisions to be outlined in further detail in the regulation, it is submitted that the concept of "hierarchy of preferences" for compensation in relation to lost CSG production be expressly reflected in the legislation itself, rather be than prescribed by regulation. QRC further submits: While QRC acknowledges that Division	The department notes QRC's concern regarding the hierarchy of compensation methods. It was the department's intention that the hierarchy of compensation methods be included in the regulation. In response to industry's concerns, the department is investigating options to clearly show the hierarchy of preferences (i.e. mitigation of loss, replacement gas and financial compensation).

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				3, Part 4, Chapter 4 of the Common Provisions Bill includes principles to be prescribed by regulation in relation to the mitigation of compensation liability and the calculation of compensation for lost production and replacement of infrastructure, this does not reflect the full scope of the White Paper hierarchy.	
		Chapter 4	Overlapping tenure – First right of refusal	QRC submits: The White Paper (section 3.11.1) establishes an obligation on the coal party to use reasonable endeavours to: • minimise any unnecessary contamination or dilution of ICSG; • where practicable, maximise the recovery of Undiluted ICSG; and • maximise the value of Undiluted ICSG by aligning production volumes as closely as possible to the capacity of gas distribution infrastructure serving the mine. While it is acknowledged that the offer of supply of ICSG under the first right of refusal mechanism would be subject to the resource optimisation requirements in s. 134 of the Bill, as drafted the legislation omits the obligation on the coal party to maximise the value of the Undiluted ICSG as set out above. To account for operational realities and the differing qualities of gas which may be extracted in conjunction with coal mining activities, it is expected that this obligation be contemplated in the drafting.	The department notes QRC's concerns and will work with industry to investigate options to resolve the matter.
3	Queensland Resources Council (QRC)	135	Overlapping tenure – First right of refusal	QRC submits: Further consideration also needs to be given to the triggers for the making of an offer and the various time periods that then apply in this process. The obligation in section 135(2)(a) of the Bill on the coal party to make an offer for Undiluted ICSG immediately after it becomes 'aware' of the gas is vague and may be subject to various	The department notes QRC's concerns regarding first right of refusal for incidental coal seam gas and is investigating options to resolve the issue based on the matters raised by the QRC in its submission to better reflect the intent of the White Paper. The department will ensure that it continues to engage with the QRC and other industry stakeholders on the development of these operationally complex

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				interpretations. Greater definition needs to be applied to the concept of awareness, in a manner that correlates with the requisite information to be provided in the notice of offer. The timeframes applicable to this process require further consideration, in that: • the 12 month period for the gas party to accept the offer in accordance with section 135(3)(a) may pose various difficulties for the coal party, depending on the actual circumstances of it becoming 'aware' of the gas (during which time the operations of the coal party may be curtailed pending a decision to accept and action to take by the gas party); • the two years to take supply under section 135(4)(b) may pose similar operational difficulties for the coal party, given the end date of the aggregate of the maximum periods to accept and to take may fall well beyond the date that the coal party assumes its rights to conduct operations in the Initial Mining Area ('IMA') or Rolling Mining Area ('RMA') (which may therefore be curtailed by an inability to deal with the gas); • the concept of 'use' of the gas in section 135(7) is not clear and creates potential difficulties for the coal party, in that if use means the application of the gas in a particular process, 12 months to use the gas may be insufficient lead time in circumstances where significant capital expenditure and development is required (e.g. to construct and commission a generation plant). QRC submits that this provision should be amended, to either clarify the concept of 'use' as extending to commercial allocation of gas to a particular purpose (rather than a more narrow concept of use), or a longer period be ascribed to the timeframe for use).	provisions of the Bill and any subsequent regulation development. The department agrees with the QRC's comment on the error in the drafting of clause 135(7) and is working to resolve the matter. The department would like to draw the QRC's attention to the following: • clause 134 of the Bill currently establishes the requirement for the holder of an ML (coal) to maximise resource optimisation; and • the timeframes provided in clause 135(3)(a) and clause 134(4)(b) are consistent with section 3.11.2 of the White Paper i.e. within 12 months and within two years. In addition, these provisions provide some flexibility for the parties to agree to timeframes outside the 12 months and two years established by these sections.

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				Section 135(7) of the Bill also appears to be drafted in error, in that the timeframe for use of the gas by the coal party should run from the date the offer is rejected or deemed not accepted, rather than the date of the offer. Otherwise, this section is not workable.	
		135	Overlapping tenure – Cost contributions	QRC submits: The drafting under s. 135 for an offer by the coal party to supply ICSG should recognise the coal party's entitlement for a reasonable contribution towards the cost of ICSG production which takes into account the costs and benefits that the overlapping tenement holders would otherwise incur in the absence of the ICSG off-take.	The department notes the QRC's concerns with the cost contributions of incidental coal seam gas not being expressly provided for in the legislation and will investigate options to resolve the matter.
		135	Overlapping tenure – Notice of officer and contract for delivery of ICSG	QRC submits: While s.135(4) of the Bill requires the parties to enter into an ICSG delivery contract on acceptance of the offer by the petroleum resource authority holder, none of the proposed statutory criteria for the contents of an offer or re-offer or the creation of such contracts are included in the Bill. Rather, pursuant to s.135(5) and s.135(8), these are matters that are to be prescribed by regulation. QRC strongly recommends that Government confirm as soon as possible the intended scope and application of these regulations and that industry be extensively consulted throughout the development of these regulations. QRC understands that the Government is considering building in flexibility to agree to an offer format or delivery contract that is different to that prescribed in regulation.	The department will continue to work closely with the QRC and other key external stakeholders during the development of the regulation to ensure it reflects the intent of the White Paper and remains relevant.
3	Queensland Resources Council (QRC)	161	Overlapping tenure – Compensation offset with respect to ICSG	QRC submits: Section 161(1)(b) of the Bill provides that an ML holder's compensation liability will be offset by an Undiluted ICSG offered but not accepted by a PL holder. However the drafting fails to acknowledge that, under the White Paper, such an offset would not apply to the extent that it is not practicable for the gas party (acting reasonably) to provide ICSG off-take infrastructure capacity aligned with the offered supply. QRC submits that this drafting oversight	The department agrees with the QRC's comments and is investigating options to resolve the matter.

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				should be corrected along with the matters outlined above.	
		167	Overlapping tenure – Dispute resolution, arbitration	QRC has questioned whether the following principles would be sufficient to allow an arbitrator to appropriately determine disputes on the referable matters. When resolving disputes, the Bill merely requires an arbitrator to: Optimise the development and use of the State's coal and petroleum resources to maximise the benefit for all Queenslanders; and Be consistent with safety and health requirements under mining safety legislation. In the absence of further guidelines and procedures for the conduct of arbitration there is a risk that an arbitrator will have insufficient guidance to deliver outcomes consistent with the principles of the White Paper.	The department notes QRC's concern regarding the sufficient level of detail the arbitrator has available to make a decision regarding a dispute. The department is investigating options to establish a regulation making power in clause 167 which will provide further information in the regulation. The department will continue to work closely with the QRC and other key external stakeholders to ensure the principles reflect the intent of the White Paper and remain relevant.
		144 and 145	Overlapping tenure – Adverse effects test	QRC submits: The current drafting of sections 144 and 145 of the Bill ('Adverse Effects Test') prevents the holder of a PL from carrying out authorised activities within the overlap of an Exploration permit for Coal/Mineral Development Licence if the PL activities would adversely affect coal exploration activity. Not only is this inconsistent with the White Paper principle that the gas party is free to explore and produce outside the area of sole occupancy, it also has the effect of allowing the conduct of coal exploration activities to frustrate safe and efficient CSG production. Similarly, the Adverse Effects Test fails to acknowledge the principle in section 3.3.5 of the White Paper that the conduct of exploration activities on production tenure will be subject to directions of the safety officer for the production tenure. QRC in conjunction with industry are currently making separate submissions to DNRM in relation to draft legislative amendments to the safety and health provisions for the overlapping tenure regime and this issue is among those to be discussed further.	The department agrees with the QRC's comment that the Adverse Effects Test approach in clause 145, so far as it applies to a PL, is inconsistent with the White Paper. The department is investigating options to resolve the matter. The department also notes the QRC's comments regarding the safety and health provisions relating to the overlapping tenure framework. The QRC's interpretation of clause 145(b) is correct. This is consistent with the current requirements for overlapping exploration tenures under the *Mineral Resources Act 1989* (i.e. section 318CH) and the *Petroleum and Gas (Production and Safety) Act 2004* (i.e. section 358). In response to the QRC's suggestion regarding alignment of section 145(b) of the Bill with section 318CI of the *Petroleum and Gas (Production and Safety) Act 2004*, this section applies where an EPC is granted over a PL. The section of the Bill in question is the reverse scenario. The department does not consider that the section/s suggested by the QRC would apply in the scenario in question.

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				It should also be noted that the current drafting of section 145(b) of the Bill appears to suggest that the activities of the column 1 tenure are contingent on the activities of the column 2 tenure having commenced. It is submitted that the drafting of the provision be revisited to align with the wording in the existing provisions in the *Mineral Resources Act 1989* and *Petroleum and Gas (Production and Safety) Act 2004* (e.g. section 318CI(2)).	
		127 and 138	Overlapping tenure – Joint development plans and bespoke arrangements	QRC submits: The current drafting of sections 127 and 138 of the Bill create practical difficulties in the context of recognising bespoke arrangements and grandfathered arrangements. This is because the mandatory content requirements are predicated on the 'Rolling Abandonment Model' (i.e. the model utilising IMAs and RMAs) applying in all circumstances. This is inconsistent with the overarching White Paper principle that the legislative regime is the default regime only and that the parties are free to negotiate alternative bespoke arrangements. For example, at its extreme, there may be circumstances in which the parties agree a bespoke arrangement which does not involve the 'Rolling Abandonment' principle. In those circumstances, IMAs/RMAs may not be relevant. However, it is likely that there would still be identified areas of 'sole occupancy'. It is submitted that the content requirements should not be as prescriptive as currently drafted and should instead reflect the basic information which is required by DNRM to discharge its custodian obligations. Such requirements may include: identification of areas of sole occupancy (without mandating the identification of IMAs/RMAs), proposed timing of activities and the location of relevant infrastructure. QRC requests further consultation with DNRM once the requirements with respect to health and safety obligations and planning have been finalised.	The concepts of IMA and RMA and their identification are central to the framework contained in the Bill, and links to the ability of the parties' rights to compensation and alternative dispute resolution under the legislation. The department notes the QRC's comments regarding the need for flexibility and will work with industry to investigate options to resolve the matter.
		Clause 130	Overlapping tenure -	In an initial submission to DNRM on the draft legislation	The department thanks QRC for its submission and notes the views expressed.

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		and 141	Amendment of agreed joint development plan	amendments to implement this overlapping tenure framework it was highlighted that the requirement for amendments to JDPs to be effective upon registration creates an onerous burden on parties in the context of minor changes to an agreed JDP (often made on an informal basis at the ground level between site personnel). Industry had proposed some form of materiality threshold be included in the provisions which are now reflected in section 130 and 141 of the Bill.	The department is investigating options to clarify that an agreed joint development plan is only required if a significant change has occurred in the areas outlined in section 130(4).
		124	Overlapping tenure – Exceptional circumstances notice	In relation to the reopening of exceptional circumstances, DNRM has stated that the reopening of exceptional circumstances is available through the mechanisms for amending a joint development plan. On a strict interpretation of section 130(6) and section 139(2) of the Bill, it is difficult to see how an amendment of a joint development plan may act as a surrogate mechanism for reopening exceptional circumstances. This is largely due to the fact that the exceptional circumstance mechanism itself under section 124 is not considered a 'relevant matter' (even though the outcome of modifying the mining commencement date may be). Furthermore, the operation of section 124 is dependent upon the CSG tenure holder providing notice within three months of receiving an advance notice, which would not cover any future acceleration or amendment of the joint development plan. It is suggested that an express mechanism for reopening exceptional circumstances be included in respect of the issuing of any acceleration notice under section 125 of the Bill to align with the principles set out in the Technical Working Group papers.	The department agrees with QRC's comments on this matter and is investigating options to address QRC's concerns, namely to: • amend s124 to apply the section to the holder of an ATP as well as the holder of a PL; • amend s124 to allow the holder of a petroleum resource authority to reopen a claim for exceptional circumstances when the ML holder issues an acceleration notice for an IMA or RMA under section 125 (note this would in practice only apply to the holder of a PL as there is no right for an ML holder to accelerate production over an ATP); and • insert a new section that will apply the extended mining commencement date where an ATP holder has proved exceptional circumstances exist and the ATP is converted to a PL.
		355	Restricted land – 600 metre rule	Seeks clarification that the 600m rule will no longer apply after the commencement of the Act.	Currently under the Land Access framework an authority holder must not carry out an advanced activity unless each owner or occupier has entered into a conduct and compensation agreement. The current definition of preliminary activity excludes activities within 600 metres of an occupied residence or school, which effectively

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					makes these activities 'advanced'. Definitions of preliminary activities in each of the existing resources Acts are amended by the Bill to remove this exclusion from the definition of preliminary activity. However, an error in clause 355 has failed to remove this from the definition for the *Mineral Resources Act 1989* and should be amended. The department will recommend amending the Bill.
		N/A	Notification and objections	QRC questions the 20 business day timeframe for the administering authority to make a decision on the environmental authority.	This timeframe is not changed by this Bill and is the same for all types of environmental authority. Consequently, this comment is out-of-scope for this Bill.
		386-390	Incidental coal seam gas	Highly supportive as ICSG should be put to beneficial use and is a more effective use of the resource and avoids wasteful venting of methane.	The department thanks QRC for their support for the proposed amendments.
4	Confidential				
5	EDO Qld	N/A	Notification and objections – Discussion Paper	The EDO submits: EDO Qld is aware that 176 submissions were sent to DNRM in response to the public notification of the discussion paper (Mining lease notification and objection initiative discussion paper, February 2014). We received copies of over 100 of those submissions and observed that they opposed the proposed reduction in community rights. To the best of our knowledge, no summary of public submissions was ever released.	The department thanks EDO for their submission and can advise that there were 176 submitters to the discussion paper titled 'Mining lease notification and objection initiative' were received from individuals (98), community groups (13), landholders or landholder representatives (20), environmental groups (26), miners (6), peak industry bodies (2), LGAQ, Indigenous representative bodies (2), law firms (2), QLS, infrastructure providers (2), the Construction, Forestry, Mining and Energy Union (CFMEU) and the Queensland Tourism Industry Council (QTIC). One submission was signed by forty four individuals. The department has recently published the Decision Regulatory Impact Statement (RIS) for Notification and Objections on the Department's website. It will also be posted on the Department of Environment and Heritage Protection's website as well as the Office of Best Practice Regulation's website. The department will also be taking steps to advise each submitter of its release. A broad summary of submissions is provided within Section 7 of the Decision RIS dealing with the results of consultation and a more detailed summary of individual submissions is included within Appendix 4 Table 1 of that document.
		N/A	Notification and	The community consultation process for notification and	The notification and objection initiatives were originally canvassed in a discussion

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			objections – Community consultation	objections was inadequate.	paper released by the Minister for Natural Resources and Mines on 5 July 2013. The discussion paper was advertised on the departmental and Get Involved web sites until 26 July 2013 and both sites also noted that the discussion paper applied more widely than small scale alluvial mining. While submissions on the discussion paper were sought by 26 July 2013 submissions were received and accepted as late as 8 August 2013. Consultation was not targeted at industry generally or at the alluvial mining sector alone, rather the discussion paper was released for broad public comment and the request for feedback was not limited to industry or any particular industry sector. Additional meetings were held on the discussion paper with industry, rural and local government peek bodies and key state agencies at their request. Fifteen submissions were received from miners, resource companies, peak bodies and associations representing miners, landholders, local government and the community as well as the EDO. In response, the Minister for Natural Resources and Mines released a further discussion paper including a detailed regulatory assessment dealing specifically with notification and objections for public consultation on 28 February 2014, announcing its release in Parliament on 4 March 2014. That discussion paper detailed options and recommendations for a notification and objection regime that is considered to be more commensurate with the range of risks and impacts of mining projects than the existing highly prescriptive legislative requirements. The discussion paper was advertised on the Get Involved, EHP and DNRM web sites and consultation was open for 28 days. 176 submissions on the discussion paper were accepted and considered up to and including the 8 April 2014 (38 days from the discussion papers release – almost double the recommended time frame for consultation under the Regulatory Impact Statement guidelines). Additional direct consultation was undertaken with key stakeholders, particularly peak industry bodies including with AgForce, QFF, QRC, AMEC and APPEA again at their specific request. A Decision Regulatory Impact Statement has now been released, and is published on the department's website, summarising submissions received and the government's response to the issues raised and additional suggestions made by all stakeholders. The Decision RIS has been approved for release by the Office of Best Practice Regulation (OBPR) and will shortly be available on the OBPR, and EHP websites.

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5	EDO Qld	N/A	Notification and objections – Vexatious objectors	The EDO submits that there is no evidence of vexatious objectors in Queensland.	The amendments proposed by the Bill seek to provide for a notification and objection process that reflects the level of risk and scale of operations, and remove duplication between the *Mineral Resources Act 1989* and the *Environmental Protection Act 1994.* Complexity and duplication between this legislation can itself result in delays and uncertainty. By clearly defining who can object, under what grounds and that relevant matters are addressed under the appropriate Act will simplify the legislative process and reduce opportunities for delay.
		420	Notification and objections – Objection rights	The EDO submits: Clause 420 of the Bill amends the *Mineral Resources Act 1989* (Qld) (MRA) to remove third party objection rights to the lease application process. It is proposed that the only persons who can object to a mining lease application be: • An owner of land; • An owner of access land; and • A Local Government. Such a change will ensure all of the following matters (which concern the lease application) will be discussed behind closed doors: • The corporate identity of the miner, including their past performance and any parent company/subsidiary including overseas investors; • The type of mineral being mined; • The size of the mining lease area; • The past performance of the mining company; • The financial and technical resources of the miner; • How the long the lease is proposed for; • Whether the land is mineralised, and if so, to what	The amendments provide for a notification and objection process that reflects the level of risk and scale of operations, and that removes duplication, reduces project delays and lowers costs for the industry in general, and low risk operations especially. They do this by looking at the notification and objection rights afforded under both the Mineral Resources Act 1989 and the *Environmental Protection Act 1994* as a package that inextricably linked rather than two separate and disparate approvals and approval processes. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object on many mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the Environmental Protection Act or through an Environmental Impact Statement. The type of mine that requires a site specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. Numerically, the majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the Mineral Resources Act is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an

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				extent; • Other issues relating to the public interest. There should be open standing for the public to comment on all mining lease applications. Communities, particularly those in the region the mine is proposed, should be entitled to raise issues with whether mining is an appropriate land use for the area or in the public interest. Ultimately, this could lead to the absurd situation where up to 90% of mines can go ahead without any transparency or accountability whatsoever.	objection to the Land Court on matters that relate to the mining lease application. This provides a risk based approach to notification and objection on the matters relevant to the mining lease application, by allowing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests. The 90% of applications adjoining landholders and the community will no longer have a right to object to is the 90% of applications that they currently do not object to under either the *Mineral Resources Act 1989* or *Environmental Protection Act 1994*.
5	EDO Qld	420 and 423	Notification and objections – Issues that can be objected to	The EDO submits: The Bill ensures that those persons (above) are severely restricted in the types of objections they can raise. Currently anyone has a right to raise any issue whatsoever with respect to the proposed lease, including whether it is in the public interest or whether mining is an appropriate land use. Those rights will be severely restricted to narrow issues depending on what class of 'affected person' you are. The EDO further submits: It must also be remembered that minerals are public resources held for the common good. The allocation process necessarily requires public disclosure, transparency and debate. Where is the government's justification for removing these long held rights to debate the allocation of valuable public resources? This is a clear breach of section 4(3) *Legislative Standards Act 1992* (Qld) (LSA)- the Committee must consider that there is a balance within legislation" ...between individual and community interests." There is no balance here as community rights are being totally removed altogether.	The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts under the Mineral Resources Act 1989. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests and hence to comply with the *Legislative Standards Act 1992*.

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		245	Notification and objections – Environmental authorities	Limiting public notification to site-specific applications is a severe reduction in community rights to object to mining projects which might affect their land or the environment. Minerals are a public resource which are owned by all of us. The "high-low" risk approach does not take into account cumulative impacts of many "low-medium risk" mines. While the high-risk approach is used under the CSG framework, that position is inherently flawed. "Equity" for a mining company is not comparable to "equity" for a developer as it doesn't take into account "equity" for landholders, community and the environment. The EDO submits: For all EA applications, the government could consider narrowing objectors to groups and individuals who live and reside in Queensland and can raise legitimate environmental and social issues with the proposed mine. Secondly, narrow the scope of those who can object to the mining lease application. Suggested wording could be: "*any person or group who is a resident of, or conducts relevant activities from, within the boundaries of the region where the mining lease is proposed.* " or; "*any person or group who can demonstrate a particular interest in, expertise or commitment to land use activities in the region ...* "	The change to the *Environmental Protection Act 1994* to remove public notification requirements for 'low risk' mines (i.e. those that comply with the eligibility criteria) reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either *the Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. Narrowing the range of objectors would not prevent the time delays and costs associated with requiring public notification for small, low-risk projects, nor would it meet the proportionate assessment aim of these amendments.
		245	Notification and objections – Eligibility criteria	The EDO submits: Proper debate on this Bill is impossible without seeing the "eligibility criteria". No information has been released during public consultation on exactly what site-specific applications would involve. EDO urges the Committee to delay debate of this aspect of the Bill until the proposed eligibility criteria have been released and subject to proper consultation.	The transitional eligibility criteria are currently contained in schedule 3A of the *Environmental Protection Regulation 2008*. These criteria have not changed in substance since the transition from calling low-risk mines "level 2" mines to referring to "standard applications" and "variation applications". This change in terminology was effected as part of the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which commenced in March 2013. Therefore, it is not correct to say that the government has no clear idea of what mines will be publically notified. The existing eligibility criteria make this distinction clear, including that coal mines cannot meet the eligibility criteria and therefore must always be publically notified.

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					The existing eligibility criteria will continue to operate in force until they are reviewed through the process outlined in chapter 5A of the *Environmental Protection Act 1994*. This process requires public consultation of the draft criteria and standard conditions, and consideration of any submissions prior to the final eligibility criteria and standard conditions being made. The transitional eligibility criteria and the standard conditions for mining activities must be reviewed by March 2016 due to sunset provisions in the transitional arrangements for the legislation which commenced in March 2013. Therefore, the eligibility criteria and standard conditions will be developed through a public consultation process and individuals and members of the community will have a right to have a say about the conditions that govern these small, low risk mines during that process. The eligibility criteria and standard conditions can also minimise any cumulative impacts – for example, the existing standard conditions for mining leases prevent the holder from carrying out certain activities, such as large volumes of chemical storage, or directly or indirectly releasing waste from the project area to any watercourse, waterway, groundwater, wetland or lake.
5	EDO Qld	71 and 413	Restricted land	The EDO submits: Restricted land rights should remain even where open cut-mining is proposed. These are people's livelihoods we are talking about, it should not simply be a matter of whether resources will be 'sterilised' or not.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding any such mining lease application.
		246	Notification and objections –	The EDO submits: The Bill should not remove the requirement to re-notify an EA application when an EIS is undertaken under the SDPWO Act. There are very significant	An EIS for a coordinated project under the *State Development and Public Works Organisation Act 1971* (SDPWO Act) includes assessment of significant environmental effects. Last year, the Coordinator General published a generic

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			Coordinated Projects	differences between the EP Act and the SDPWO Act process which disadvantage landholders and communities trying to come to terms with complex information.	Preparing an environmental impact statement Guideline for proponents which states that: "The objective of the EIS is to ensure that all potential environmental, social and economic impacts of the project are identified and assessed; and that adverse impacts are avoided, minimised or sufficiently mitigated. Direct, indirect and cumulative impacts must be fully examined and addressed. The project should be based on sound environmental protection and management criteria." Consequently, it is the Queensland Government's view that requiring additional notification of the environmental authority application is unnecessary duplication of process. An analysis of the draft EIS public consultation period for EISs under the SDPWO Act in the last two years shows that the public consultation period has always exceeded the statutory consultation period under the *Environmental Protection Act 1994* (i.e. over 30 business days). Note that under the proposed amendments, the finalisation of an EIS is not the only criteria. In addition, the environmental risks of the activity must not have changed and the administering authority must be satisfied that any change would not be likely to attract a submission objecting to the thing the subject of the change. In those circumstances, any submitters to the SDPWO Act EIS will receive a copy of the draft environmental authority (if approved) and will have the right to appeal the environmental authority to the Land Court.
6	Cotton Australia	3	MQRA Program	The Bill's aim to consolidate common provisions across the resources Acts is supported; however this should not come at the expense of landholder rights by adopting the lowest standard from one of the Acts.	The department thanks Cotton Australia for their conditional support of the proposed amendments. The department agrees that the lowest regulatory approach should not be adopted in every case and this has not been the objective of the MQRA Program. An example of this is the adoption of the restricted land framework across all resource authorities. For the first time, landholders affected by future applications by the petroleum and gas sector will have a right to say no to most resource activities within close proximity to their homes.
		40(3)	Land access - Exemptions from obligations to notify	Concerned the broad definition of "independent legal right" has the potential for abuse.	The drafting of the provision has been modernised from the existing resources Acts which only refers to a "right". This "right" is further clarified by the Bill under clause 40(3) as an "independent legal right" which is a right to enter land that is enforceable under any law, including common law right, but does not include a right to enter the land under this Act or a resource Act. A contractual arrangement is

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					provided as an example.
		40(1)(c)	Land access – Notice of entry	Cotton Australia submits: The exemption under 40(1)(c) is inappropriate as a landholder or occupier may still need to know when entry is planned (when Land Court is considering an application).	It was not the policy intent for an application to the Land Court under the relevant section to exempt a resource authority holder from providing an entry notice to an owner or occupier. In ensuring consistent terminology has been used when consolidating the land access requirements from the resources Acts, this provision has inadvertently been added. The department will seek to rectify this drafting error.
		45	Land access – Opt-out agreements	Questions having no limitations on the circumstances in which an opt-out agreement can be made. Suggest amendments to enable prospective purchasers to request a CCA when an opt-out agreement is in place; and that independent legal advice is provided to the landholder.	The department notes Cotton Australia's concerns regarding no limitations being provided for the situations where an opt-out agreement can be used. However, the LAIC Report identified potential motivations for landholders wanting to opt-out of having a formal CCA, but did not recommend that legislative limitations should be imposed on the circumstances an opt-out could be exercised. The department is committed to implementing the LAIC report and believes landholders and resource authority holders will be able to determine the circumstances that an opt-out agreement will be suitable. Landholders will be encouraged to seek legal advice as to the suitability of an opt-out agreement in their circumstances, but this will not be a compensatable effect under clause 80 to avoid unnecessary delays and complexity to an agreement that is designed for straightforward situations. A landholder that wishes to recover legal costs should request the negotiation of a CCA. The department is currently considering whether opt-out agreements should be included within clause 93 as binding on successors and assigns.
		67	Restricted land	Cotton Australia states: The changes to the 600 metre rule now require consent within 200 metres of homes for exploration and production authorities, while the distance is only 50 metres for other resource authority types. It is unclear exactly what resource activities fall under the consent requirements for each distance. We understand that the specific resource authority types will be outlined in the Regulations. As it currently stands, this does not adequately protect landholder homes and key infrastructure.	All resource activities that are carried out on the surface of land or below the surface of land that are likely to have a surface impact (other than exemptions provided) will require consent for the owner or occupier of restricted land. While the distances for restricted land are proposed to be prescribed by regulation under clause 67, a distance of 200 metres has been consulted on in a Regulatory Impact Statement to apply for any exploration and production authorities (e.g. exploration permits, authorities to prospect, mining leases, petroleum leases etc.) and petroleum facility licences, and 50 metres for all other resource authorities including data acquisition authorities, water monitoring authorities and survey licences.

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		67	Restricted land – Drafting approach	Bill should contain key principles of the consent requirements with flexibility added in the regulation to allow for practices and circumstances as they evolve.	The Bill proposes key principles in the Act such as: • restricted land applies to surface or subsurface activities that have a surface impact; • specifies buildings that are restricted land (e.g. homes, schools); • provides an outcomes based framework to determine if other types of buildings should be restricted land (i.e. determination by the Land Court); and • provides flexibility in regulation making powers to define distances, buildings, activities and exemptions to adapt to circumstances as they evolve.
		287(2), 315(3), 355, 489(3) and 552(3)	Restricted land – Preliminary activities	Cotton Australia submits: There is now potentially less opportunity to discuss key issues of concern to landholders now that a CCA is no longer required when preliminary activities, such as seismic surveys on private land are being undertaken. It is understood that a CCA can be unnecessary in some cases, however, where there is a potential for impact, environmental or to landholder operations, a CCA or other measure should be required to cover landholder concerns such as weed management. The suggestion in the Department of Natural Resources and Mines Summary of the Bill (p12-13) that landholders with concerns about preliminary activities on their property "contact the company to discuss a mutually agreeable outcome" is not a solution to the remnant issues, such as appropriate weed management, that were formerly addressed within CCAs.	Currently a conduct and compensation agreement (CCA) is required for any activity within 600 metres of a school or occupied residence (600 metre rule). Preliminary activities outside 600 metres do not require a CCA. Preliminary activities involve walking, driving along an existing road or track, taking soil or water samples, geophysical surveys not needing site preparation, some types of minimal impact surveys and survey pegging. Anything else is an advanced activity which includes drilling, clearing, road construction and seismic surveying using explosives. Any advanced activity requires a CCA. Under the changes proposed by the Bill, a CCA would not be required for preliminary activities anywhere on a property. However, within the restricted land distance, the landholder has the right to withhold consent to most activities being undertaken within that distance. While the actual restricted land distance is proposed to be prescribed by regulation, consultation on a proposed distance of 200 metres for exploration and production authorities was undertaken. If this was adopted, it would mean that a CCA for preliminary activities would no longer be required between 600 and 200 metres. Within 200 metres, owners and occupiers would have the right to withhold consent or impose any conditions, and in addition a CCA would be required for any advanced activities. The 600 metre rule does not adequately provide for weed management as a preliminary activity can currently take place anywhere on a property outside 600

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					metres from residences without a CCA. Regulation of weed management is provided under other frameworks, including the Land Access Code and mandatory conditions under the Mineral Resources Regulation 2013.
		418 and 419	Notification and objections	Cotton Australia is extremely concerned that notice provisions and rights of objection will be curtailed significantly under the Bill for mining projects. Given that a number of coal projects are proposing to operate on or undermine highly productive agricultural land, including laser levelled irrigation land, these changes have the effect of removing legitimate notices and rights for landholders to object to proposals that damage their business, infrastructure and assets irreparably. We refer the Committee specifically to the Shine Lawyers submissions on these provisions.	Coal projects do not meet the eligibility criteria and therefore must be made as a site-specific application for an environmental authority. Therefore, there is no curtailment of community rights for the environmental authority for these projects.
		Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 – division 7 part 9 – division 6 part 10 – division 7	Legacy boreholes - Impact on bores used by landholders as back-up water supply in drought	The current provisions in the Bill relating to remediation of legacy bores are quite loosely drafted, particularly where they relate to non-emergency or safety related remediation. Cotton Australia is keen to ensure that landholders are consulted before any work is undertaken as many bores that are not used regularly are part of back-up water supplies in times of drought.	The department thanks Cotton Australia for its submission. It is noted that it is intended for the State authorisation to be used for urgent remediation of legacy boreholes that present a safety concern. In the event emergency action is taken, landholder notification is required. It is also anticipated that landholders will generally be the party to identify the safety concern requiring remediation action. In the situation where the holders of tenure decide to remediate boreholes that do not present safety concerns, existing requirements for conduct and compensation agreements, access and notification apply, thereby ensuring that landholders are consulted.
7	The Wilderness Society	Refer to Table 3			
8	QGC Pty Ltd	Chapter 4	Overlapping tenure	As an active participant in the dual-industry Working Group that prepared the White Paper, QGC is strongly supportive of the principles articulated in the Queensland Resources Council Report, Maximising Utilisation of Queensland's Coal and Coal Seam Gas Resources - A New Approach to Overlapping Tenure in Queensland (May 2012) (the "White	The department thanks QGC for its submission and notes its concerns. The department has also responded to APPEA's submission to the Bill and is working with APPEA and QRC and other key stakeholders to address matters raised.

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				Paper") and welcomes Government's commitment to enacting legislation to adopt the White Paper framework. QGC has contributed to and supports the submission made by APPEA in relation to the Bill. APPEA's submission highlights a number of areas where the Bill either deviates from, or omits key elements of, the White Paper framework. All elements of the White Paper framework should be reflected in the legislation - the framework was expressly presented as a "package" in the White Paper, with each element being central to the dual-industry consensus reached through the White Paper process.	
		Chapter 3, part 7	Land access - Expanded jurisdiction for Land Court	Subdivision 3 of the MERCP Bill relates to powers for the Land Court to consider whether access to land is reasonable. It is QGC's view that this section of the Bill should be amended to clarify that the Land Court has powers to decide only whether or not the conditions of access are reasonable, not that the Land Court is able to prohibit access to a property by a resource authority holder.	This provision has been migrated across from the existing resources Acts and it maintains the status quo. The Bill does not amend or expand the Land Court's power to consider whether access is reasonable or reasonably required. It should be noted that this clause only relates to land used to reach the area of a resource authority, not the land subject to the resource authority. The Land Court must consider whether the proposed access is reasonable, among other criteria.
		94	Land access - Expanded jurisdiction for Land Court to consider conduct issues	Suggest that the Land Court already has broad powers to impose conditions within a CCA, and therefore the expansion of the Land Court jurisdiction to enable consideration of conduct issues is unnecessary.	Clause 94(2)(c) provides that the Land Court can decide the resource authority holder's obligations or limitations when carrying out authorised activities on the eligible claimant's land. The department is committed to implementing the LAIC Report recommendations, including recommendation 1(b) requiring legislative change to expand the jurisdiction of the Land Court to allow the court to make determinations on matters relating to conduct issues. This will ensure the Land Court has clear jurisdiction to resolve a CCA where conduct issues cannot be agreed.
		80	Land access - General Liability to Compensate	Clause 80 of the MERCP Bill relates to the resource authority holder's general compensation liability. However the drafting of this provision needs to clearly articulate the costs which are intended to be captured. QGC is broadly supportive of meeting a landholder's reasonable and necessary travel expenses but does not support a requirement to pay for owners' time to negotiate	Clause 80(4) provides a list of categories of effect for which compensation may be claimed This provision has been migrated across from the existing resource Acts and maintains the status quo. The Land Access Implementation Committee (LAIC) was asked to review the heads of compensation to ensure no cost or erosion of landholder rights. An independent consultant was engaged to undertake a comprehensive analysis of the heads of compensation in Queensland, and examined the issue of landholder

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				conduct and compensation agreements , other than where the loss of the landholder's time has resulted in additional expenditures (eg. the costs of labour hire).	time spent negotiating a land access agreement, and whether this should be a compensatable effect. The LAIC Report concluded that it would not be prudent to further legislate the heads of compensation at the current time due to the positive evolution of negotiating practice. The department is committed to implementing the LAIC Report recommendations, including advice regarding the current heads of compensation.
		90 and 207	Land access - Recording agreements on title	QGC believe the requirement to note relevant agreements upon title would impose a significant cost and administrative burden, and should be optional at the landholder's request.	The purpose of LAIC recommendations requiring relevant agreements to be noted on title was to ensure that a prospective purchaser of a property is made aware that they exist and can investigate the terms and conditions that may apply to them as a future owner. This recommendation was developed by peak agricultural and industry representatives sitting on the LAIC, and originated due to stakeholder concerns about the potential for a property to change hands without a purchaser's knowledge that an agreement exists. To deliver certainty to prospective purchasers and give full effect to the LAIC recommendation, all relevant agreements will need to be noted upon title to eliminate this risk.
		84	Land access - No entry during minimum negotiation period	Clause 84 of the MERCP Bill would prevent a resource company from entering land to carry out advanced activities until the minimum negotiated period expires, even if the parties enter into an agreement before the end of the period. It is QGC's view that this is an unnecessary and unreasonable proposal, particularly because of its potential to override agreements reached between parties, and that this provision should be removed.	This provision has been migrated across from the existing resources Acts and maintains the status quo. Clauses 84 and 85 work together to establish a cooling-off period for the conduct and compensation agreement (CCA). This is a standard feature to contractual arrangements and protects the parties against any last-minute changes or "contractors remorse" if there is any doubt behind the agreement. This is particularly important as a CCA cannot be amended unless there is a material change or the parties agree to the change.
		Chapter 7, part 4, division 5	Overlapping tenure - Modification of particular provisions for Surat Basin area	The White Paper at section 4.1 on transitional arrangements for Grandfathered Production Tenure Applications described that the Working Group could not reach consensus on the application of new principles to existing production tenement applications and retention tenements. DNRM has chosen to find middle ground between the viewpoints adopting an arrangement similar to the approach for exceptional circumstances for high performing CSG wells and fields. Special transitional arrangements for a defined area of the Surat Basin take into account the importance of the Basin to the State's CSG-to-liquefied natural gas	The department thanks QGC for its submission and support of the proposed amendments.

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				industry, and will provide certainty of future access for the coal industry. It should be noted that the three CSG-LNG project proponents, including QGC, made final investment decisions for their respective projects based in part on the legislative regime that existed in 2010/11 . Whilst the transitional arrangements defined in the Bill are not QGC's preferred position, we believe that the arrangements proposed under the Bill are workable.	
9	Confidential				
10	Cape York Land Council	N/A	General	The Cape York Land Council submits that there must be greater engagement with Indigenous groups and their representative organisations in any proposals for legislative or policy change. We again urge the State Government to develop a model for planning and stakeholder engagement for Cape York which ensures that Indigenous landholders and native title holders are properly engaged and represented.	The department thanks Cape York Land Council for their submission and notes their request for better engagement with indigenous landholders and native title holders. Based on this and other submissions the department is examining its consultation strategy with indigenous and native title group and examining models that are in place in other agencies for consultation a Native Title Expert Panel has also been established to provide advice in regard to the MQRA program and working with the department's Aboriginal and Torres Strait Islander Land Services group. Once a better understanding is achieved of what is and isn't working within government further consultation will occur with indigenous groups to develop a better understand the broader consultation needs of indigenous people which will assist in informing how the department engages with them in the future.
		Schedule 1 and clauses 418 and 420	Land access – Definition of owner Notification and objections	That Cape York Land Council submits that our concerns about the failure of the proposed provisions to adequately accommodate the existence of native title rights and interests could be largely addressed if the Bill was amended to include native title holders as owners or occupiers or parties who may be affected by proposed activities on land. This would ensure that notification and objection provisions would be extended to those Indigenous people who assert the existence of native title rights and interests in relation to land. Native title groups should be included in the processes for access to public land, which is now to include reserve land. Native title rights and interests are likely to exist on reserve	The Commonwealth *Native Title Act 1993* provides for the interests of native title claimants, requiring that they be notified when an application is made over relevant land. This requirement will not be affected by the consolidation of the resources legislation into a single Act. Additionally the Queensland *Aboriginal Cultural Heritage Act 2003* provides for the protection of aboriginal heritage and cultural practices.

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				land in Cape York.	
		Chapter 3, part 4	Restricted land	In relation to restricted land, we oppose the proposal to grant tenure over the entire area including the restricted land. We are concerned that the requirement for written consent to enter the restricted land to carry out authorised activities before the tenure holder can conduct activities on that land will not be sufficient to protect the interests of Indigenous people with native title rights and interests in the land. Similarly, there is no protection for groups with native title rights and interests in neighbouring areas which may be affected by a resource activity.	The Bill preserves the constraints on miners undertaking activity authorised under a mining lease within land that is restricted land. No mining activity authorised by the granting of the lease can be undertaken within the area of restricted land without the owner's consent.
		80	Land access – General liability to compensate	The "eligible claimant" provisions in section 80 should include native title holders to ensure that where public or private land is being used for access to a resource activity, they are also able to seek compensation for any effect on their rights and interests.	This provision has been migrated across from the existing resources Acts and maintains the status quo. The Commonwealth *Native Title Act 1993* provides for native title interests, requiring that they be notified when an application is made over relevant land. This requirement will not be affected by the consolidation of the resources legislation into a single Act. Additionally the *Queensland Aboriginal Cultural Heritage Act 2003* provides for the protection of aboriginal heritage and cultural practices.
		396	Pegging of boundaries	The proposed removal of the requirement for physical pegging of boundaries is not supported, as it has the potential to make it difficult for Indigenous parties potentially affected by an application to identify relevant areas. There are likely to be practical ramifications for land in the vicinity, as well as the actual land on which activity is to occur, such as damage to land caused by access. Cultural heritage rights may be affected.	The provision for alternatives to the marking of the boundaries of a mining lease and claim ensure that the proposed tenement is clear and unambiguous and capable of being realised on the ground. The Bill also provides discretionary power for the chief executive to require physical monuments in individual circumstances or to apply generally across areas of land. Cultural heritage is protected under the *Aboriginal Cultural Heritage Act 2003* and *Torres Strait Islander Cultural Heritage Act 2003* which are not amended by the Bill, and as a result no changes to protection afforded to cultural heritage will result from the Bill.
		398	Notification and objections – Affected persons	Changes to requirements for notification of mining lease applications (by limiting notification of mining lease applications to "directly impacted landholders, occupiers, infrastructure providers and local governments") may result in Indigenous people with native title or other interests in the	The Commonwealth *Native Title Act 1993* provides for the interests of native title claimants, requiring that they be notified when an application is made over relevant land. This requirement will not be affected by the Bill.

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				affected land not being aware of the application (particularly where native title has not yet been determined and land tenure has not yet been obtained). CYLC submits that public notification of all ML applications should be maintained or that Indigenous people with interests in an area should be included in the process as "directly affected landowners".	
		Chapter 9, part 3	Notification and objections – Standard and variation applications	We submit that public notification of standard applications and variation applications for an environmental authority for a mining activity under the *Environmental Protection Act 1994* should be maintained.	This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either *the Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified.
11	QCoal Group	223 and 224	Overlapping tenure – Existing applications under Mineral Resources Act, chapter 8	Issue 1: With respect to the transitional provisions, where consent (whether the consent was obtained prior to the Mining Lease (ML) application or during negotiations) with an overlapping ATP holder has been given, then those ML applications should proceed to grant and operate under the pre-amended Mineral Resources Act (MRA) provisions. The ATP holder at the time of an existing lodgement gave consent or entered an agreement with full knowledge of the commercial consequences of that decision and it is unreasonable for an ML applicant to start a whole new overlap process again in those circumstances. The rights of the ATP are therefore not affected by this change and it also protects the rights of the ML applicant at time of application. In the circumstance of one of QCoal's major projects that is	Issue 1: The department notes QCoal Group's concern that an ML application, at the time of commencement of the Bill, should remain under the pre-amended *Mineral Resources Act 1989*. The department is working closely with internal and external stakeholders to resolve this matter. Issue 2: The department notes QCoal Group's concern regarding the legislative rights of the production tenure holders at the time of application. The department is working closely with internal and external stakeholders to resolve this matter.

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				in the last stage of Mining Lease approval, the Bill as it stands will lead to significant and unnecessary delays to the "proposed mining commencement date" (section 113 of the Bill). The flow on effect from this is that royalties and local and regional economic benefits will also be delayed. Issue 2: The Bill should clearly state that it does not seek to change the rights of production tenure holders at the time of application, i.e. as of the date of the ML application/PL application the MRA provisions of the time should apply. For example, if at the time of an ML application there were no ATP holders and an ATP holder was granted prior to ML grant, then the subsequent ATP holder should gain no additional rights from the commencement of this Bill.	
		127	Overlapping tenure – Joint Development Plans	Issue 3: Section 127 of the Bill states the requirements for a Joint Development Plan (JDP). At the time of agreeing the JDP the ML tenure holder must identify the initial mining area (IMA) and each rolling mining area (RMA). The IMA is for 10 years and each RMA can only be for 1 subsequent year. It is unreasonable for a ML tenure holder to predict yearly mine plans, and therefore RMAs, in excess of 10 years in the future. The RMAs and therefore the JDP will continually be amended to reflect current mine planning status, which introduces a significant layer of red tape. This will result in significant administrative impacts and costs on the mining and petroleum parties and also the State. Solution for Issue 3: Provide a mechanism outside the JDP to identify and update RMAs.	The department notes QCoal Group's concerns with the requirements of clause 127 of the Bill. However, the proposed legislative amendments have been developed to reflect the policy position as provided in the White Paper. Concerns with the requirements of an agreed joint development plan under clause 127 have been raised by other submitters and the department is investigating options for providing more flexibility around the requirements as established in clause 127. It is important to note that the occupancy of an IMA is not for 10 years but rather, as provided by clause 107(2) the size or area of an IMA is to be based on 10 years' worth of mining operations. Similarly, with an RMA, clause 109(2) provides that the size or area of an RMA is to be based on one year's worth of mining operations.
		113	Overlapping tenure - What is proposed	Issue 4:	The department notes QCoal Group's concerns with clause 113(2) of the Bill. However, the proposed legislative amendments have been developed to reflect the

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			mining commencement date	Section 113(2)(b) of the Bill states that where an application for a Mining Lease is over an existing Petroleum Lease then the proposed mining commencement date is at least 11 years after the date of the advanced notice. This will sterilise vast areas of coal resources as 11 years is manifestly long and unworkable. Solution for Issue 4: Reduce the period under section 113(2)(b) of the Bill to 18 months as per section 113(2)(a).	policy position as provided in the White Paper. The rationale provided in the White Paper is that the notice period will allow the PL holder to maximise gas extraction and extract the bulk of production and economic benefit from petroleum wells and associated infrastructure before it is required to abandon those facilities and give the right of way to the ML holder. It is important to note that the notice period of at least 11 years provided for in clause 113(2) only applies to the area of sole occupancy and that flexibility exists in clause 114(2) for the parties to agree to a time frame that is less than 11 years.
12	Queensland Murray-Darling Committee Inc.	N/A	General	QMDC's major concern is that industry remains the driver for licensing regulatory reform and the argument for amending the current law is still couched in terms such as reducing compliance and administrative costs to industry and government. QMDC does not consider economic or fiscal arguments supporting this Bill are either well-articulated or factually proven but are rather formulated from an industry dominated position and worldview. QMDC continues to assert the starting point for reform must be ensuring environmental protection and sustainability objectives are furthered by reform and not watered down because industry is having issues with the costs or the requirements of compliance. If there is a better way to ensure compliance with these objectives QMDC believes the protection of the environment must be the baseline from which any reform needs to start. A comprehensive understanding of the projected impacts of industry and business and compliance with legislation and regulation in the QMDB should be explored in relation to the impact on the region's natural resources and other assets as identified in the Regional NRM Plan. Overall QMDC is concerned that the drive to reduce regulation for the mining and energy industries and all the other associated legislative change is swimming against the tide of community expectations of government and will likely adversely affect agricultural production in Queensland. As	The department thanks the Committee for its submission. The approach taken in the Bill reflects government policy. There will be no net decrease in the protections for or management of impacts on the environment as a result of the Bill.

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				agriculture is one of the Four Pillars of economic development any impact on profitable land use should be viewed seriously.	
		Bill as a whole	Fundamental legislative principles	The claim that the Bill will enable community, owners, occupiers and public land managers to "have a greater say" is contradictory to legal and social analysis of the Bill's clauses. The Explanatory Notes acknowledge breaches of, and the undermining of, fundamental legal principles and public objection rights. Arguments by government attempting to counteract those breaches are in our opinion poorly articulated and completely undervalue the important role of community groups to represent public interests. QMDC is concerned that many of the clauses contained in the Bill do not have sufficient regard to the rights and liberties of individuals and the public. The abrogation of rights and liberties from current law must be justified, whether the rights and liberties are under the common law or statute law. The Bill has abrogated many of the rights of landholders which exist in both common law and statute, for example, the basic right to unhindered and peaceful use and enjoyment of private land, the right to object to a proposed mining lease, and the right to withhold consent for restricted land within a mining lease. The poor justification, provided within the Explanatory Notes does not adequately defend the abrogation of the rights of landholders by the Bill. Additionally, many of the clauses of the Bill are inconsistent with the principles of natural justice. For example, a person or local community who is impacted by the activities of a mining lease but does not fall within the definition of an "affected person" cannot object to the granting of that mining lease.	The department acknowledges that some of the proposed amendments in the Bill may be construed as (potential) breaches of section 4 of *the Legislative Standards Act 1992*. The *Legislative Standards Act 1992* does not establish fundamental legislative principles (FLPs) as rules of law but rather as important guiding principles to be observed in drafting legislation. In having regard to FLPs, the purpose of the *Legislative Standards Act 1992* to be achieved is that of ensuring Queensland legislation is of the highest standard. Sometimes, an amendment may be inconsistent with a FLP to achieve important policy objectives. The approach taken in the Bill reflects government policy.
		N/A	Public resource managed for public interest	Minerals are taken to be the property of the Crown and held by the Crown as a common resource. This Bill however does not comply with this legal obligation. The Bill effectively subsumes the rights of citizens or the public underneath the	The approach taken in the Bill reflects government policy.

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				interests of industry. QMDC argue that a public resource should be managed for public good. The policy focus of the Bill should therefore focus on this, instead of being primarily concerned with company profit and regulatory obligation. Mineral resources because they are a public resource should require equal consideration by the state government to consult with key organisations and bodies that represent community economic interests. This is clearly absent in the Bill and continues to result in the mining sector and government denying key opportunities for companies to develop a much needed "social license to operate".	
		3	MQRA Program - Assessment of regulatory burden	The transitional process and ongoing reforms and repeals indicate there will be an increase in administration cost. This cost to the public has not been estimated or considered.	There will be a level of disruption to all stakeholders during the transition to a common resources Act under the MQRA Program. However, the department is of the view that the long-term benefits to business, the community and government are worth this short-term inconvenience. The expected benefits include: simpler and more cost effective delivery of online administration of the resources sector; improved investment attractiveness through faster processing times as staff can be directed towards peak workloads regardless of resource type; and a simplified regulatory framework under one Act that allows all stakeholders, especially the community, to have a greater understanding of resource authority administration.
		N/A	General - assessment of regulatory burden	Throughout the Bill's Explanatory Notes there is a presumption regulation is a burden and unnecessary. QMDC is most concerned that the community is being asked to support the argument that there is a "regulation burden" for mining companies without providing evidence that this is indeed a fact. QMDC, on the contrary would argue regulation is not stringent enough, and that more controls, for example, are required on exploration, including the establishment of no-go zones. The cost of regulatory process to industry is only one component of wider socio-economic issues relevant to mining. Governments must factor in regulatory burdens on landholders, which result in decreased productivity and	The assessment of regulatory burden is undertaken in accordance with the government's Regulatory Impact Statement System Guidelines. Any assessment of regulatory burden is oversighted by the Office of Best Practice Regulation who has reviewed the department's assessment of that burden for each part of the Bill.

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				efficiencies of existing farms or other businesses likely to be impacted. This in QMDC's opinion, makes a stronger argument for no-go zones, rather than reduced regulation.	
12	Queensland Murray-Darling Committee Inc.	Chapter 9, part 3	Notification and objections	Notification of mining leases to [neighbours, local community and public interest groups] should be mandatory and not removed from the EPA, including standard applications and variations of an environmental authority for a mining activity. If only 'high risk' mines will be publicly notified for objection on environmental grounds, this means that for 90% of mines existing public objection rights will be lost. A clear definition [of low risk and impacts] is required to show how it will be determined that a low likelihood of risks.	The change to the *Environmental Protection Act 1994* reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. A 'low risk' mine is determined by the ability of the operator to meet eligibility criteria which are currently contained in schedule 3A of the *Environmental Protection Regulation 2008*. These criteria provide a clear definition of when a mine can make a standard or variation application. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either *the Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. Standing for notifications and appeals under the *Environmental Protection Act 1994* has not been changed.
		68	Restricted land	Does not support the removal of landholder consent provisions currently in place for restricted land.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.

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		Chapter 9	Amendments to Petroleum and Mineral Legislation	QMDC does not support the amendments to: • omit the requirement to lodge a notice about a petroleum discovery and its commercial viability; • extend the time allowable before Ministerial approval is required for continuing production or storage testing on a petroleum well; • allow the holder of a petroleum tenure to use CSG produced water for any purpose on or off tenure.	The QMDC have not given specific reasons for not supporting, nor given proposed recommendations, about these amendments. However, if read in the context of the rest of QDMC's submission, it would appear that QMDC are of the opinion that these proposed amendments would have a negative affect on the environmental management of authorised petroleum activities or on landowners whose land the activities are proposed to be carried out. In reality, these three proposed amendments will reduce regulatory impacts on the petroleum industry and the Government administrators of the Acts where these provisions currently reside. These proposed amendments will not affect the current environmental regulations to which a petroleum tenure holder must comply with when carrying authorized petroleum activities, nor landowners' rights as they currently stand. The omission of the requirement to lodge a notice about a petroleum discovery and its commercial viability is proposed as there are issues about 'when' petroleum is discovered, particularly when petroleum, that is Coal Seam Gas (CSG), is 'discovered'. This is because of the dewatering that unavoidably needs to occur from the coal seam to release the CSG in commercial amounts. Section 544 of the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) and section 75Y of the *Petroleum Act 1923* (PA 1923) provide a definition for when CSG is said to be 'discovered'. The definition is as follows: "(1) If a [petroleum tenure] holder makes a petroleum discovery, the holder must, within 5 business days, lodge a notice of the discovery. (2) For subsection (1), if a [petroleum tenure] holder explores or tests for coal seam gas— (a) the discovery of the presence of coal seam gas in a coal seam is not, of itself, a petroleum discovery; and (b) the holder discovers coal seam gas only if it is actually produced from a petroleum well used for the exploration or testing." This definition does not align with the realities of CSG exploration and production. Most CSG exploration wells will result in a 'discovery' of CSG, even though, strictly speaking, no discovery notice need be submitted under section 544 of the P&G Act and section 75Y of the PA 1923 because of the definitions of a CSG discovery provided for in these sections.

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					Also, the value to the Government of requiring these notices is also questionable when not read in context with other related information. Much of the information that can be obtained from these notices is submitted by petroleum tenure holders in other notices, reports or documentation already statutorily required under the P&G Act and the PA 1923. A notice from a petroleum tenure holder, advising the chief executive of a petroleum discovery, is referred to as a 'notice of discovery'. A notice from a petroleum tenure holder, advising the chief executive about whether or not petroleum production from the reservoir the subject of the notice is commercially viable, or potentially commercially viable, is referred to as a 'notice of commercial viability'. The following lists the number of these types of notices, received by the Department of Natural Resources and Mines (DNRM) for the last 42 months: • For the year 1 January 2011 to 31 December 2011 there were 152 notices of discovery and 28 notices of commercial viability (total of 180). • For the year 1 January 2012 to 31 December 2012 there were 59 notices of discovery and 78 notices of commercial viability (total 137). • For the year 1 January 2013 to end of 31 December 2013, there were 88 notices of discovery and 22 notices of commercial viability (total 110). • For the year 1 January 2014 to end of 30 June 2014, there were 24 notices of discovery and 1 notice of commercial viability (total 25; total 452 for 42 months). The proposed amendment to extend the time before Ministerial approval is required for production testing reflects the realities of testing for production from a petroleum well, particularly if it is a CSG well. Gaseous hydrocarbon may be encountered in a natural underground reservoir once the drill bit of the drilling rig, drilling the petroleum well, intersects the reservoir. To evaluate the feasibility of petroleum production from this petroleum well certain tests are carried out on the well. One of these tests involves releasing gaseous hydrocarbon from the well through a choke (with a meter attached) of a known size at the surface of the well. The volume of gaseous hydrocarbon produced through the choke and flow rate displayed on the meter can help determine the commerciality of producing

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					petroleum from the well. The petroleum industry calls this test "production testing". Generally production testing needs to be carried out on a CSG well for a longer period than if the well was drilled to target other types of petroleum. This is because of the dewatering that needs to occur from the coal seam to release the CSG. Tests may also be conducted, via a petroleum well, to determine the suitability of a natural underground reservoir for storage of gaseous hydrocarbons. Rather than releasing gaseous hydrocarbons, a substance (a gas or water) may be injected into the well. This is called "storage testing" by the petroleum industry. Notices will still be required upon commencement of production or storage testing, enabling the administrators of the relevant Acts to monitor the testing and the amount of petroleum released or stored during this activity. The Ministerial approval served no useful purpose other than to obtain this information. Applications from the petroleum industry, requesting Ministerial approval for production or storage testing beyond the statutory 30 day allowable period, are referred to as 'applications to extend production or storage testing'. The following lists the number of applications to extend production or storage testing, received by the DNRM for the last 42 months: • For the year 1 January 2011 to 31 December 2011 there were 172. • For the year 1 January 2012 to 31 December 2012 there were 248. • For the year 1 January 2013 to end of 31 December 2013, there were 604. • For the year 1 January 2014 to end of 30 June 2014, there were 45. The growth in applications for approval would continue exponentially in the next 5 to 10 years as the CSG to liquefied natural gas plants come on line and more CSG wells need to be drilled to provide the feedstock for these plants. The amendment to allow the holder of a petroleum tenure to use CSG produced water for any purpose on or off tenure is merely a clarification of an amendment that was enacted in the *Land Water and Other Legislation Act 2013* (LWOLA). There was some uncertainty about whether the amendment made by this Act gave complete effect to the policy position in relation to associated water. Associated water is defined in the P&G Act as underground water that is taken or

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					interfered with during the course of, or as a result of, carrying out an activity for a petroleum tenure. This includes CSG water. Essentially, associated water is the 'by product' water of petroleum activities. Prior to the amendment made by the LWOLA, a petroleum tenure holder could provide associated water to a landholder whose land overlaps the petroleum tenure without further authorisation under the *Water Act 2000*. However, a water licence was required if the water was to be provided to another landholder whose property did not overlap the tenure. The original rationale for requiring the water licences became invalid due to the evolution of the adaptive management framework for petroleum activities from 2004 when Chapter 3 of the *Water Act 2000*, which deals with underground water management, was enacted. Potential impacts on groundwater systems from water extraction associated with petroleum operations are now addressed through chapter 3 of the *Water Act 2000*. In addition, the *Environmental Protection Act 1994* and the associated Environmental Authority for the operation, including approval requirements for CSG water for beneficial use, appropriately address potential environmental impacts associated with the use of associated water.
12	Queensland Murray-Darling Committee Inc.	Chapter 3	Land access – Private land	QMDC recommends that all the proposed clauses related to conduct issues, conduct and compensation or opt-out agreements registered on land title and opt out options where established relationship exist need thorough consultation and reassessing.	The department notes QMDC's desire for thorough consultation and reassessing, and highlights that these amendments have resulted from a prolonged and extended period of review and consultation originating in the report of the *Land Access Review Panel,* which was released in July 2012, and the subsequent *Queensland Government Response to the report of the Land Access Review Panel*, the *Six Point Action Plan*, and finally the *Land Access Implementation Committee Report*.
		Chapter 3	Restricted land	The Bill proposes to significantly alter the definition of restricted land and with it alter landholder and public interest rights. Who determines whether an activity within 600m of a residence is a no or low impact? Impact should be determined on a case by case basis dependent on the health, safety, security and well-being of landholders, families and business owners affected and should require compensation for loss of privacy and enjoyment of one's	The Bill introduces a consistent restricted land framework to apply to all resources Acts. For the first time, landholders affected by future applications by the petroleum and gas sector will gain the right to withhold consent to the majority of resource activities within close proximity to their homes and some business premises. The restricted land framework also applies to neighbouring buildings outside the boundary of the resource authority where the existing conduct and compensation agreement (CCA) framework does not. Once the landholder's consent has been obtained, a CCA is required before the

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				home or business surrounds.	resource authority holder may undertake advanced activities on the land. A CCA is not required for preliminary activities. Advanced and preliminary activities are defined by the Bill. Preliminary activities involve walking, driving along an existing road or track, taking soil or water samples, geophysical surveys not needing site preparation, some types of minimal impact surveys and survey pegging. Anything else is an advanced activity which includes drilling, clearing, road construction and seismic surveying using explosives.
		56, 356, 358	Land access – Public land (reserves)	QMDC does not support amending the MRA to remove the requirement for a 'reserve' owner's consent.	The requirement to obtain consent to enter 'reserve' land is unique to the MRA. While the Bill in general provides a consistent framework for public land access, the ability for the reserve owner to provide consent remains for mining leases and claims. Only exploration permits and mineral development licences are affected by the proposed change. Under the changes for these resource authorities, the consent of the public land authority will not be required. However the public land authority may impose conditions on the resource authority before any activities can be undertaken. The public land authority is best placed to consider the local public interests and impose conditions that are relevant to those interests.
		56	Land access - Public land	National parks and conservation reserves should be no go zones for mining and resource exploration.	The concerns raised by the QMDC are beyond the scope of the amendments in the Bill. However, it should be noted that exploration and production resource authorities cannot be granted over a national park under section 27 of the *Nature Conservation Act 1992.*
		58	Land access – Entry notice for public land	QMDC does not support the right to lodge a notice of entry with the public land authority before a resource authority is granted.	The intent of the change is to provide greater efficiencies for resource authority holders to reduce any potential delay to the operational commencement of the development. The amendment will allow, subject to the conditions imposed, for the resource authority holder to access the land and commence operations as soon as possible after the tenure is granted. While the resource authority applicant may give a notice to a public land authority, access to the land may not occur until the 30 day period has expired and the tenure has been granted.
		58	Land access - Entry to public land to carry out authorised activity is	QMDC does not support the public land access framework in the Bill, where only the public land authority is notified.	The requirement for resource authority holders to notify the public land authority (PLA), but not any occupiers of public land, is consistent with existing arrangements under all resource Acts except the *Mineral Resources Act 1989*.

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			conditional		As the PLA can place reasonable conditions on the entry to public land, it is appropriate that the PLA considers the requirements of occupiers in applying any conditions. They can liaise with relevant occupiers as required in developing conditions. To ensure the PLA can continue to undertake this role, the Bill clarifies that the PLA can apply conditions to address the requirements of occupiers.
		90	Land access - Particular agreements to be recorded on titles	Expressed concern that if something is written into title, it may tie successive landholders to an untenable agreement.	Clauses 79 and 93, which have been migrated from the resource Acts, stipulate that access agreements, conduct and compensation agreements, road compensation agreements, or specified decisions of the Land Court, are binding upon successors and assigns. The purpose of clause 90 requiring certain agreements to be noted upon title is to ensure that prospective purchasers are well aware of relevant agreements that have been reached between the owner and a resource company, thus allowing them to make an informed decision when contemplating a purchase; something that is not currently available. Clause 90 does not affect the binding nature of the various agreements. This implements the recommendation from the LAIC which the government has committed to actioning.
12	Queensland Murray-Darling Committee Inc.	414	Mining Applications	QMDC supports government actions not to allocate exploration licenses for tenements that would be too small or too irregular a shape for efficient mines or production wells to be successful. QMDC however does not support the right to build up tenements in size without a full consideration of the impact on surrounding natural assets or land use by government. QMDC further recommends that when exploration leases expire a decision should be made based on current and cumulative impacts, whether those leases be renewed at all. Weight should be given to economic impacts of exploration as well as environmental impacts- the uncertainty created by exploration has dire and immeasurable impacts such as loss of confidence in future farm innovation and investment, succession planning, mental health stresses etc. (e.g. Felton, Cecil Plains). Mining companies economic analyses are notoriously poor and rarely consider base case scenarios such as loss of farm production. QMDC believe a clear definition is required to determine that	The effect of the changes in the Bill on the size of an application that can be applied for up to the 300 ha limit is to provide for a single application where previously six separate applications may have been required. Any application for a mining lease, regardless of size, is assessed against the requirements of the *Mineral Resources Act 1989* and the *Environmental Protection Act 1994.*

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				a low likelihood of risks exists or is likely to exist. We are concerned, for example, that this will include turning the management of cultural heritage into a risk assessment rather than describing or defining it as a proactive response to a protected asset. QMDC asserts that if it is the government's intention to "streamline" the "duty of care" and "due diligence' this needs to be fully discussed and examined against cultural values.	
		386-390	Incidental coal seam gas	Benefits of not flaring gas are appreciated however use of ICSG must be conditioned as best practice and compliance assessed regularly.	The use of ICSG will be subject to the existing compliance frameworks under the *Mineral Resources Act 1989*, *Petroleum and Gas (Production and Safety) Act 2004* and the *Coal Mining Safety and Health Act 1999.* This includes requirements for safety, standards and reporting.
		Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 – division 7 part 9 – division 6 part 10 – division 7	Legacy Boreholes	QMDC recommends that legacy boreholes are appropriately identified and mitigation or remedial works that need to be done are facilitated in collaboration with the landholder.	It is noted that it is intended for the State authorisation to be used for urgent remediation of legacy boreholes that present a safety concern. In the event emergency action is taken, landholder notification is required. It is also anticipated that landholders will generally be the party to identify the safety concern requiring remediation action. In the situation where the holders of tenure decide to remediate boreholes that do not present safety concerns, existing requirements for conduct and compensation agreements, access and notification apply, thereby ensuring that landholders are consulted.
		Chapter 6	Registers	Public access to the proposed one register is necessary in terms of creating confidence in the transparency of government decisions. Recommendation: QMDC recommends allowing public access to the proposed one register because it is necessary in terms of creating confidence in the transparency of government decisions.	Clause 187 of the Bill maintains the existing public right to access the register about resource authorities. This can be undertaken free of charge via the department's website.

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		Chapter 4	Overlapping tenure - Right of way for coal	Coal mining is not sustainable development. All efforts should be made by government to phase out coal mining in order to support a viable renewable energy industry; one based on sound social, environmental and economic grounds both locally and internationally espoused. This right of way is not supported because it is not the most profitable, sustainable use of a common resource. Recommendation: QMDC recommends a full reassessment of the coal mining right of way because mining it is not the most profitable, sustainable use of a common resource.	The department thanks the Queensland Murray-Darling Committee Inc. for its submission and notes the views expressed. However, this part of the Bill is drafted consistent with the government's policy position.
		424	Mining lease – Restricted land	QMDC recommends that technical non-compliance must be able to be defined and ascertained as part of due legal administrative process. Genuine mistakes or errors must be able to be rectified fairly. Amendments or changes must however be notified and trigger a different process if they alter the essence of the application and are not confined to genuine errors such as typos. QMDC recommends not allowing the granting of tenure over the entire area including restricted land, especially if written consent to enter restricted land is the only measure of control or compliance.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist.
13	AMEC	3	MQRA Program	AMEC is supportive of the MQRA Program, but the Bill must be closely scrutinized to prevent any unintended consequences to maintain a strong mineral exploration and mining sector in Queensland.	The department thanks AMEC for their general support for the proposed amendments.
		Chapter 3	Land access	AMEC supports the introduction of the opt-out agreement, as it is crucial in recognising the excellent working relationships that many mineral exploration companies maintain with landholders. AMEC also supports the various other amendments to enable easier and quicker access to land across	The department thanks AMEC for their support of the proposed amendments.

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				Queensland, without increasing costs, or enforcing unwarranted compensation.	
		386-390	Incidental Coal Seam Gas	Proposed change to allow ICSG released during coal mining to be transported, sold and used beyond a specific mining lease is supported.	The department thanks AMEC for their support for the proposed amendments.
		Chapter 9	Notification and objections	The proposed amendments to duplicative notification periods are regarded as a positive step for the Queensland Government seeking to increase the certainty for investors in the mineral exploration and mining sector. The repetitive opportunities for anti-development interest groups to attempt to re-examine the authority holder, simply reduces Queensland as an investment destination and devalues the issues of truly affected landholders. As such, AMEC supports the amendments the Bill proposes to limit objections to the Land Court directly to the land holders on site-specific environmental applications and very large scale developments. This provides some certainty to small scale mining operations and will save time and costs for the smaller scale developers in Queensland.	The department thanks AMEC for their support for the proposed amendments.
		231 - 233	Overlapping tenure - Surat Basin	AMEC has significant concerns regarding the amendments specifically sterilising the Surat Basin Transition Area for mining activities. The consequences of these changes will remove any possibility of exploration companies with tenements in this area to raise capital, in an already dire market for these small-cap companies. By giving gas companies until 31 December, 2016 to have a Petroleum Lease granted, the Queensland Government will essentially force all coal companies to abandon projects throughout the Surat Basin. Whilst it is understood the CSG industry is considered of strategic importance to Queensland, there is no logical argument to support the increase in a mining parties notice period to 16 years. Further to this, despite the stated intent for gas and coal companies to have the opportunity to negotiate a commercial	The department appreciates that the matter of transitional arrangements for the Surat Basin geographical area is a contentious issue for the resource industry. This is evident in the fact that the parties failed to reach an agreed position on the matter in the White Paper and turned to government to resolve this matter. In developing a policy position on the issues government has attempted to seek a 'middle-ground' position and remain consistent with the principles of the framework. Clause 114 of the Bill provides some flexibility for the parties to agree to a mining commencement date that is earlier than one that is provided in the chapter. However, there seems to be issues of clarity and interpretation with this clause. Therefore the department is investigating options to clarify that the parties may agree to a mining commencement date different to that established in clause 232, therefore making clear the opportunity for the parties to negotiate a truncated notification period.

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				outcome in the Bill's explanatory notes, there is no opportunity within the Surat Basin Transition Area. AMEC regards this as a retrograde step and recommends that special protections for gas companies are not necessary, as the new framework in the Bill for overlapping tenures already provides 11 years of notification. At the very least, the Bill should be amended to ensure that there is the opportunity to negotiate a truncated notification period between gas and coal parties. As it currently stands, the Queensland Government will sterilise this area for in excess of 18 years and further reduce the attractiveness of investment in Queensland coal exploration.	
		Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 – division 7 part 9 – division 6 part 10 – division 7	Legacy Boreholes - proposal for Government to assume costs for emergency situations	The various amendments to set the protocol for addressing uncontrolled gas emissions from legacy boreholes are considered adequate by AMEC. The overarching industry concern was the risk associated with land access, and the costs of controlling a fire or capping boreholes. AMEC recommends that the Government needs to assume the costs of an emergency situation where a legacy borehole is alight or in need of remediation. These legacy boreholes are by their nature, not in use by a permit holder, and under the relevant regulation of the time the tenure was relinquished, were regarded by Government to be sufficiently rehabilitated. Current permit holders should not be penalised for past Government standards. Other methods to cover costs should be employed such as the Mining Rehabilitation Fund established last year in Western Australia, which seeks to progressively rehabilitate priority abandoned mine sites and associated features.	The department notes that the matter of costs associated with remediating legacy boreholes is outside the scope of the Bill.
14	Ergon Energy Corporation Limited	33	Dealings, caveats and associated agreements - Recording and removal of associated agreements	A party to an associated agreement should be entitled to apply to have an associated agreement recorded on the register so that any person acquiring an interest in the resource authority is aware of the existence of the associated agreement.	The policy objective of the associated agreement provisions is to provide the resources industry with a mechanism to record associated agreements on the public register against a resource authority. The department does not undertake any assessment of the agreement prior to registration and it is purely a service to industry. These provisions were established by the *Mines Legislation (Streamlining)*

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					Amendment Act 2012 and provided that any entity could register an associated agreement. Since commencement of that Act, it has been identified that there needs to be a process to remove agreements from the register so that it remains accurate. Changing the ability to register agreements to the holder alone, allows these agreements to be readily removed with no additional cost to government or industry to implement. While the changes suggested by the submitter are not unreasonable, by allowing other entities to record agreements with consent of the holder and for the department to provide notices and consider objections from holders prior to registration or removal, would have implementation costs for the department. This would include development costs for online services and labour costs to process applications. These costs would need to be recovered. While this Bill provides that only the resource authority holder can register the agreement, it has never been compulsory for any agreement to be registered under these provisions. Therefore it has only limited value in providing awareness of agreements that may exist. Parties to an agreement other than a holder may wish to make it a condition of the agreement that the holder register it as an associated agreement, not remove it without their consent and specify the terms which apply if the condition is not met.
		58	Land access - Entry to public land to carry out authorised activity is conditional	Ergon are concerned that the public land access framework does not protect the rights of occupiers of public land.	The requirement for resource authority holders to notify the public land authority (PLA), but not any occupiers of public land, is consistent with existing arrangements under all resource Acts except the *Mineral Resources Act 1989*. As the PLA can place reasonable conditions on the entry to public land, it is appropriate that the PLA considers the requirements of occupiers in applying any conditions. The PLA can liaise with relevant occupiers as required in developing conditions. To ensure the PLA can continue to undertake this role, the Bill clarifies that the PLA can apply conditions to address the requirements of occupiers. It is also noted that there are restrictions and penalties in place under the *Electricity Act 1994* and associated regulations for proposed works near electricity infrastructure.
		68	Restricted Land - Definition of Building	The definition of restricted land should define the term 'building' to include structures used for generating and transmitting electricity which should be protected from resource activities.	While acknowledging the issues identified by the submitter, these have not been addressed by the Bill and the proposed land access framework maintains the status quo for this infrastructure. Any inclusion of electricity infrastructure such as power lines as restricted land

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					could significantly restrict resource activities. It is also noted that there are restrictions and penalties already in place under the Electricity Act 1994 and associated regulations for proposed works near electricity infrastructure.
		69	Restricted Land - Relevant Owner and Occupier	1. For any "restricted land", the Bill defines the person who is the owner or occupier of that restricted land (defined as the "relevant owner or occupier" in section 69 of the Bill). This relevant owner or occupier has the right to withhold or give consent (whether or not on conditions) to the holder of a resource authority carrying out. It is possible that the owner of the relevant building is not the owner of the land on which it is located. For example, for powerline towers, the owner of the towers will likely be an electricity entity such as Ergon Energy and not the owner of the land on which those towers are located. 2. As the definition of "relevant owner or occupier" includes both owners and occupiers, it is likely that the owner of powerline towers would be an occupier of that building and the land on which it is situated. 3. However, in order to put the matter beyond doubt, it is suggested that an additional paragraph be included in section 69 of the Bill which clarifies that for the purposes of section 69, the owner or occupier of a building may be different to the owner or occupier of the land on which the building is located.	Clause 69 states that restricted land applies to both owners and occupiers. The definition of occupier under schedule 2 of the Bill states that occupier includes a person who has been given a right to occupy the place by the owner.
		71	Restricted land - Compensation Agreements and Mining Leases	Section 71 of the Bill provides an exception to the need for consent from the relevant owner or occupier of restricted land. That exception is where the resource authority is a mining lease and the holder of the mining lease has entered into a compensation agreement with the relevant owner and occupier under section 279 of the *Mineral Resources Act 1989* (Qld) (MRA). 1. The proposed amendment to section 279 of the MRA	The department is of the view that it is a matter of statutory interpretation that for section 279 that a compensation agreement has the same meaning whether it is voluntarily entered into or ordered by the Court. In the circumstances envisaged by clause 429, that once compensation is resolved, the consent of the owner is no longer required, the amendment suggested by Ergon would result in a perverse outcome if section 71 did not apply to circumstances where the land Court ordered the amount and terms of compensation. The department is of the view that no amendments are required to sections 279A,

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				(contained in section 429 of the Bill) makes it unclear whether the exemption applies only to agreements voluntarily entered into by the parties or also where there is a determination of compensation by the Land Court. This inconsistency between section 71 of the Bill and the amended section 279 of the MRA should be clarified and should only apply to agreements voluntarily entered into by the parties. 2. In addition, consequential amendments should be made to various sections of the MRA (such as sections 279A, 280, 281 and 283B) to ensure that those sections apply to relevant owners and occupiers of restricted land who receive compensation and not just owners of land.	280, 281 and 283B but will take the matter up with the Office of the Queensland Parliamentary Counsel to be certain.
		418	Restricted land - Notice of Mining Lease Application	While relevant owners or occupiers of restricted land in the area of a mining lease are entitled to compensation in respect of the mining lease, there is no right for such owners and occupiers to receive notice of the mining lease application. 1. Section 418 of the Bill, which replaces section 252A of the MRA, provides that a mining lease notice must be given to "affected persons". The definition of affected persons includes owner and occupiers of land as well as entities that provide infrastructure within the area of the proposed mining lease. Owners, occupiers and entities that provide infrastructure will likely comprise the majority of relevant owners or occupiers of restricted land. 2. Under the definition of “affected person” in section 418 of the Bill, there is the possibility that some relevant owners and occupiers of restricted land do not fall within the ambit of "affected person". For example, restricted land may be centred on a building on land adjacent to the mining lease and the area of the restricted land may extend into the area of the mining lease. In this instance the relevant owner or occupier of	Clause 418 inserts new section 252A(2)(c) & (e) to provide for an occupier or infrastructure owner to be notified of a mining lease application. If there is any infrastructure owned and operated by Ergon Energy or other infrastructure providers that meets the definition of restricted land, the resource authority holder will be prevented from undertaking any activity authorised by the issue of the authority within a prescribed distance from the feature unless Ergon Energy provides consent to the activities. This protection extends to features that trigger restricted land on land adjacent to the mining lease. As that protection is prescribed in law there is no additional need for the landholder of the adjoining land to be further notified.

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				restricted land may not be an affected person and may not be entitled to receive a mining lease notice under the proposed replacement section 252A of the MRA. 3. It is suggested that the definition of "affected person" in the proposed replacement section 252A(5) of the MRA also include "relevant owners or occupiers of restricted land".	
		72	Restricted Land - Declarations of Restricted Land	The Bill should make it clear that a person who claims to be a relevant owner or occupier for restricted land under section 69 of the Bill is also entitled to apply for an order declaring whether or not the land is restricted land.	Under section 72, the owner or occupier of the land subject to a dispute about its status as restricted land can apply to the Land Court for a determination. As part of this process it is likely that the Land Court would consider the standing of the applicant under the definitions of owner or occupier provided in the Bill.
		420	Notification and objections - Objections to Mining Lease Applications	The Bill (at section 420) limits the people who are able to make an objection to a mining lease application by replacing section 260 of the MRA. The people who may object to a mining lease application are now only owners of the land in the area of the mining lease, owners of access land and the relevant local council. However, there are other persons whose interests may be directly affected by the grant of the mining lease and these people should also have a right to object. 1. It is suggested that the definition of "affected person" in the proposed new section 260 of the MRA be amended so that it is the same as the definition of "affected person" in the proposed new section 252A of the MRA (to also include "relevant owners and occupiers of restricted land" as suggested above) as these are the people who would be directly affected by the grant of the mining lease and should therefore have the right to make objections to the mining lease and to seek conditions on the grant of the mining lease or seek the refusal to grant the mining lease. 2. This is particularly important for owners of electricity infrastructure such as Ergon Energy. At present, where a mining lease is proposed over powerlines or other electricity infrastructure owned by Ergon Energy, the	Ergon Energy are included in a category of affected persons that will be entitled to receive notification of a mining lease (refer to clause 418 of the Bill) which affords them an opportunity to enter into early negotiations with the applicant and, as per their submission, to resolve any issues there may be relating to impacts on any infrastructure they own or manage. Together with the provisions of the *Electricity Act 1994* it is considered that electricity infrastructure providers are afforded with the necessary mechanisms to ensure that any impacts on electricity infrastructure are managed appropriately without the need to resort to the Land Court through the objection process.

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				only means by which Ergon Energy can protect its interests is to object to the grant of a mining lease and/or seek conditions on the grant of the mining lease. If the right to object is taken away , the ability for Ergon Energy (and similar organisations) to protect their interests is significantly reduced. The suggested change above would ensure that Ergon Energy (and similar entities) would retain their rights and be able to take steps to properly protect their interests. 3. A corresponding amendment will also need to be made to the proposed new section 260(4) so as to clarify the grounds of objection that these additional categories of person can make. 4. It is suggested that each of: a. occupiers of the land; b. relevant owners and occupiers of restricted land; and c. an entity that provides infrastructure wholly or partially on land the subject of the proposed mining lease, be entitled to object to a mining lease on the same grounds as an owner of the land the subject of the proposed mining lease being the matters mentioned in section 269(4)(a), (b), (c) or (d)(i) or (iii) as all of these matters could be relevant to such persons.	
		403	Land access - Accessing Mining Lease Land	While the Bill deals with a number of issues around access to land, the Bill doesn't address an issue relating to access to land in the area of a mining lease (or mining claim) by owners and occupiers of that land. Section 403 of the MRA, subject to some exceptions, makes it an offence to enter the land subject to a mining lease (or mining claim) without the consent of the holder of the mining lease (or mining claim). The new regime in relation to	The department notes that there are a number of issues relating to the interaction between mining leases and electricity infrastructure, however most of these issues are outside the policy scope of this Bill. The intention of providing infrastructure providers with a copy of the application where they have infrastructure within or across a proposed lease is to enable the infrastructure provider to advise the mining company and for those companies to enter into negotiations to resolve any issues to the parties mutual satisfaction. It is considered that there are adequate remedies to resolve these issues without

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				restricted land is not consistent with this offence provision. 1. The current section 403 is problematic for owners and occupiers of powerline towers and other structures or buildings used in the generation, transmission or distribution of electricity (electricity works). 2. Owner and occupiers of electricity works are prevented from entering, using or occupying land or from erecting any building or structure or making any other improvement on land the subject of a mining lease unless they have the consent of the holder of the mining lease. The only exception may be under section 403(2) of the MRA which allows them to enter and be upon the land (but not to use or occupy or to erect buildings or structures etc.) where authorised under an Act or law for the purpose of carrying out duties. 3. Accordingly, where the holder of a mining lease refuses consent (unless the owner or occupier of the electricity works has a right under an Act or law to carry out duties but noting that that right does not entitle them to use or occupy the land or to erect any building or structure or make other improvement to the land), the owner or occupier of the electricity works will be prevented from operating, maintaining or improving the electricity works. This could adversely affect supply to customers and the community and it could also adversely affect the health and safety of customers, the community and people on the mine site as a result of electricity works not being properly maintained and operated. 4. These potential outcomes are likely not intended by the MRA and the legislation should be amended to address these land access issues. 5. In addition, section 403 of the MRA is inconsistent with the changes to the restricted land provisions introduced by the Bill. Prior to the commencement of the Bill, restricted land was excluded from the area of the	having to resort to an objection process.

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				mining lease where the owner of the restricted land didn't consent to the land being included and therefore section 403 of the MRA didn't apply to that restricted land and didn't prevent persons from entering that land. With restricted land now being included in the area of a mining lease (albeit with restrictions on the mining lease holder entering that restricted land), in order to ensure that rights are not diminished by the Bill, section 403 should be amended to ensure that owners and occupiers of restricted land have a continuing right to enter and use that restricted land notwithstanding the grant of a mining lease over that land. 6. Other potential options to deal with the issue about entering land in the area of a mining lease and to ensure that mining lease holders cannot prevent persons with particular rights or needs to enter land in the area of a mining lease, such as owners and occupiers of electricity works , are as follows: a. The exception in section 403(2) of the MRA could be extended so that the whole of subsection (1) (and not merely (1)(a)) should not operate to prevent an authorised person from carrying out a duty according to an Act or the law. It is noted that this amendment alone would not be sufficient to ensure rights of access for the owners of electricity works. b. Section 403(2) of the MRA should not be limited to people carrying out duties under any Act or law and could be extended to include rights to enter, use and occupy the land and to erect and maintain buildings, structures and improvements. c. A specific exception could be included in section 403(2) of the MRA to allow owners and occupiers of electricity works to enter the land to operate and maintain those works and to erect replacement or extensions to those works. These owners and occupiers could be defined by	

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				reference to the definition of "affected persons" introduced in the proposed new section 252A of the MRA as an entity that provides infrastructure wholly or partially on land the subject of the mining lease. d. A specific exception could be included in section 403 of the MRA to provide that a person may enter the area of a mining lease in accordance with the conditions of the mining lease. The conditions of mining leases could, whether in section 276 of the MRA or in the actual conditions imposed upon the grant of the mining lease, provide that the holder of the mining lease needs to allow certain persons, including the owners and occupiers of electricity works, to enter the area of the mining lease in order to exercise their rights and fulfil their obligations in relation to those electricity works. Further, the MRA could be amended to make it a requirement of the grant of any mining lease that the Minister impose such conditions as are necessary for the continued use and operation of electricity works by any owner and occupier of electricity works in the area of the mining lease.	
15	Shine Lawyers	Bill as a whole	Departure from fundamental legislative principles	The Bill has abrogated many of the rights of landholders which exist in both common law and statute – such as the right to object to a proposed mining lease, the right to withhold consent for restricted land within a mining lease, the right to peaceful use and enjoyment of the land etc. The justification, or lack thereof, provided within the explanatory notes does not adequately support the abrogation of the rights of landholders by the Bill. Further, in our view, many of the clauses of the Bill are inconsistent with the principles of natural justice. For example, a person who is impacted by the activities of a mining lease but does not fall within the definition of an "*affected person*" cannot object to the granting of that mining	The department thanks Shine Lawyers for their submission. The department acknowledges that some of the proposed amendments in the Bill may be construed as (potential) breaches of section 4 of *the Legislative Standards Act 1992*. The *Legislative Standards Act 1992* does not establish fundamental legislative principles (FLPs) as rules of law but rather as important guiding principles to be observed in drafting legislation. In having regard to FLPs, the purpose of the *Legislative Standards Act 1992* to be achieved is that of ensuring Queensland legislation is of the highest standard. Sometimes, an amendment may be inconsistent with a FLP to achieve important policy objectives. The approach taken in the Bill reflects government policy.

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				lease. This is a clear example of a lack of consideration of the view of a third party whose rights are affected by action taken under legislation.	
		Bill as a whole	Legislation by Regulation	Grave concerns about the use of regulations proposed by the Bill. Use of regulations can be a means of ignoring sound legislative drafting techniques and good government. The items proposed to be subject to regulations should be in the Act so that there can be adequate public debate.	The approach taken in the Bill should be considered in the context of the existing resources Acts being very prescriptive. Highly prescriptive, rigid and detailed legislation is restrictive and does not allow the government to be responsive to the dynamic environment within which the resource industry operates. It is important to get this balance right to ensure crucial investment is not lost to other jurisdictions with simplified frameworks. Any new or changes to regulations are still subject to the Regulatory Impact Statement (RIS) System that can require detailed cost-benefit analysis of proposed changes and detailed consultation. All regulations must be tabled in Parliament where a disallowance motion can be moved. The Blueprint (available on DNRM website, p.22) for the strategy on how the department is to operate identifies as a key enabler of reform—the modernisation of our regulatory framework through making sure legislation is practical and easy to administer and removing prescriptive regulations to enable more flexibility for businesses, landholders and the community.
15	Shine Lawyers	13	Land access - What is private land	Shine Lawyers is concerned that the definition of "private land" in the Bill may prejudice Aboriginal and Torres Strait Islanders.	This provision has been migrated across from the existing resources Acts and maintains the status quo. Only the *Petroleum and Gas (Production and Safety) Act 2004* refers to the Aboriginal and Torres Strait Islander Land Acts when defining "private land". These references are not necessary to the definition as Aboriginal and Torres Strait Islander land falls within the second category of private land as "an interest in land less than fee simple held from the State under another Act".
		39	Land access - Obligation to give entry notice to owners and occupiers	The drafting of the clause should be made consistent in its reference to owners and/or occupiers with regards to entry notice requirements.	The department considers that this clause achieves the policy intent.
				The obligation to provide the Chief Executive with a copy of the entry notice (as currently provided at section 495(3) of the P&G Act) has not been replicated in the Bill. In our view,	The department notes Shine Lawyer's concerns with the removal of the requirement for a resource authority holder to give a copy of an entry notice to the chief executive. However, the proposed legislative amendments in the Bill have

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				an impartial third party who monitors and ensures that companies follow and abide by the policy and procedures provided for in the legislation is crucial. We therefore submit that a provision equivalent to section 495(3) of the P&G Act be included at clause 39.	been developed to meet the government's commitment to reduce regulatory burden. While the mandatory requirement to provide a copy of an entry notice to the chief executive has been removed, the ability for the department to impartially monitor the land access framework has been maintained, through the ability of the chief executive to request a copy, under clause 194 of the Bill, of any notice or consent given under chapter 3.
		40(3)	Land access - Entry notices	Concerned the broad definition of "independent legal right" has the potential for abuse and increases the likelihood of future litigation in situations where the resource authority holder has entered the land based on a conversation with a landholder which has been misinterpreted.	The drafting of the provision has been modernised from the existing resources Acts which only refers to a "right". This "right" is further clarified by the Bill under clause 40(3) as an "independent legal right" which is a right to enter land that is enforceable under any law, including common law right, but does not include a right to enter the land under this Act or a resource Act. A contractual arrangement is provided as an example.
				Sub-section (1)(c) provides an exemption to the resource authority holder from giving an entry notice if the Land Court is considering an application under section 94. This proposal is in conflict with the current section 495(1)(b) of the P&G Act where the petroleum authority holder is obligated to give an entry notice at least ten (10) days before entry to the Land where the Land Court application exemption applies. Without the requirement to provide notice, the resource authority holder will effectively be able to enter the land as soon as the matter is referred to the Land Court without any requirement to provide notice of the anticipated entry. We therefore submit that the exemption be removed from the clause. This proposal would be an abrogation of landholder's rights and a lowering of resource authority holder's obligations. We think it only fair landholders be given notice.	It was not the policy intent for an application to the Land Court under the relevant section to exempt a resource authority holder from providing an entry notice to an owner or occupier. In ensuring consistent terminology has been used when consolidating the land access requirements from the resources Acts, this provision has inadvertently been added. The department will seek to rectify this drafting error.
				Further, sub-section (2)(a) of the Bill provides that the obligation to give an entry notice to enter and carry out an authorised activity on private land does not apply if the resource authority holder has a waiver of entry notice with each owner and occupier of the land. However, the note under sub-section (2)(a) provides that an owner or occupier of land may give a waiver of entry notice. In our view, the	The department considers that this clause achieves the policy intent.

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				exemption provided under sub-section (2)(a) should only be available if a waiver of entry notice is given by each owner and occupier. Whilst this appears to be the intention behind the clause, it is confused by the note beneath it.	
		42	Land access - Right to give waiver of entry notice	Shine lawyers submits that a waiver of entry notice should only have effect if it is given by both the owner(s) and occupier(s) of the land.	This provision has been migrated across from the existing resources Acts and maintains the status quo. Both owners and occupiers have a right to be given an entry notice under clause 39 (subject to exemptions under clause 40). The provisions provide the flexibility for an owner or occupier to determine their preferred arrangements. Adopting Shine Lawyers suggestion would essentially remove this option for owner and occupier's unless all parties agreed to a single agreement or arrangement. This approach is not in line with the Government's commitment to reducing regulatory burden or the intent of the land access framework to provide flexibility for the parties.
		45	Land access - Right to elect to opt out	The Land Access Implementation Committee clearly intended that "opt-out" agreements would only apply in very limited circumstances. In our view, an "opt-out" agreement offers very little benefit to a Landholder and provides little protection once signed. We also note that the Deferral Agreement framework is already in place and we therefore question the inclusion of a further framework which provides yet another avenue for a resource authority holder to avoid entering into CCA's with Landholders. Further, an "opt-out" agreement is unlikely to be any simpler than a CCA or Deferral Agreement could be. The clause itself lacks clarity and protection in crucial areas. We therefore submit that the following would improve the framework: 1. Extend the cooling-off period to 20 business days; 2. Obligate the resource authority holder to compensate the Landholder for the reasonable and necessary legal, accounting and valuation fees incurred by the Landholder in negotiating the opt-out agreement; 3. Specify that a Notice of Intention to Negotiate (NIN)	The department notes Shine Lawyers concerns with the right to elect to adopt an opt-out agreement. However the proposed legislative amendment is designed to implement a framework which enables a landholder, at their discretion, to elect to enter into an opt-out agreement with the resource authority holder. If a landholder does not believe that an opt-out agreement is suitable in their circumstances, they are under no obligation to sign an opt-out agreement, and have the right to negotiate a CCA. The proposed amendments by the submitter would introduce uncertainty for resource authority holders and increase the complexity of what is intended to be a simple framework. Materials will be developed that will specify the consequences and risks of entering into an opt-out agreement to landholders so that all relevant information is provided prior to any decisions being made to opt-out.

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				must first be provided by the resource authority holder, following which the Landholder may elect to enter into an opt-out agreement; 4. Specify that the opt-out agreement will only apply to the activities provided for in the NIN and to the extent identified on the map; 5. Enable the Landholder to call upon the resource authority holder to enter into a CCA for the activities provided for in the opt-out agreement; 6. Enable the Landholder to unilaterally terminate the opt-out agreement where they have a reasonable excuse; 7. Insert a provision, rather than a note, that the resource authority holder still has a compensation liability under section 80. Without knowing the specifics of what an "opt-out" agreement will contain it is difficult to provide further submissions on this issue, however, if it is to contain the compensation to be received it is crucial that an eligible claimant be afforded the opportunity to receive professional advice before entering into the agreement.	
15	Shine Lawyers	47	Land access - Limited access to private land outside authorised area	Shine Lawyers questions the necessity for the access land framework to apply to exploration permits under the *Mineral Resources Act 1989*.	The Bill is drafted consistent with the government's policy position to develop a consistent framework across all resource types. This provides a consistent approach to allow all resource authorities to cross land to access the authority area. Exploration permits under the Mineral Resources Act 1989 had no such statutory mechanism.
				Shine Lawyers suggests that access agreements should be in writing only.	The ability for the agreement to be made orally or in writing ensures that there is sufficient flexibility in the framework to accommodate different access scenarios. The framework allows the parties to decide how to record their agreement based on the nature and duration of the activities required for access. To amend the requirements to mandate all agreements be in writing is likely to introduce unnecessary regulatory burden for the parties.

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		50(2)	Land access - Additional topics for access agreements	Access agreements to cross land to reach a resource authority that vary the entry notice obligations should be in writing, especially if they are to bind successors and assigns.	This provision has been migrated across from the existing resources Acts and maintains the status quo. These access agreements may be made orally to not force a regulatory requirement for those who choose to make such an agreement. The access may be temporary and at short notice where agreement is readily provided. If there is any substantive works undertaken by the resource authority holder to establish the access or the access is critical to the resource activities, the department suggests that agreements should be in writing. It would be in the parties best interests to ensure this is the case.
		50(3)	Land access - Additional topics for access agreements	If the access agreement to cross land to reach a resource authority includes a CCA, do the processes that apply to CCAs generally also apply (i.e. chapter 3, part 7, division 2)?	Yes, chapter 3, part 7, division 2 concerning provisions for conduct and compensation agreements (CCA) may apply. Under clause 80, a resource authority holder is liable to compensate each owner and occupier of land crossed to reach a resource authority (access land).
		14 and 15	Land access - Public land	The Bill does not offer any protection to landholders who are technically unlawfully occupying public land. Shine Lawyers urges the government to re-consider and re-draft the provisions accordingly.	The concern raised by Shine Lawyers is beyond the scope of the Bill and the resources Acts.
		Chapter 3, part 4	Restricted land	Welcome the introduction of the principle of restricted land to the petroleum and gas industry but are extremely concerned with several areas of the framework and how it will actually benefit landholders affected by future applications by the petroleum and gas sector. Will overall reduce the rights of landholders affected by mineral and coal sector.	The department thanks Shine Lawyers for their in-principle support for the proposed restricted land framework. For the first time, landholders affected by future applications by the petroleum and gas sector will gain the right to withhold consent to the majority of resource activities within close proximity to their homes. The restricted land framework also applies to neighbouring buildings outside the boundary of the resource authority where the conduct and compensation agreement (CCA) framework does not. For landholders affected by the mineral and coal sector, the department has consulted on a proposed restricted land distance of 200 metres. This is double the existing distance under the Mineral Resources Act 1989. While stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply, will no longer be restricted land, this infrastructure is already managed under the CCA framework for the petroleum and gas sector. The proposed changes ensure that this approach is consistent across all resource sectors.

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		67	Restricted land - Definitions	Definition of pipeline should be included in the Act to give effect to the description provided in the Explanatory Notes.	The Explanatory Notes for this clause state that the meaning of pipeline for the purposes of the clause does not include ancillary surface infrastructure. Section 14B of the Acts Interpretation Act 1954 provides that Explanatory Notes may be used to assist in the interpretation of an Act howeverthe department will consider the recommendation.
		67	Restricted land – Pipeline exemption	The installation and maintenance of an underground pipeline should not be exempt from restricted land. These activities involve use of machinery, high levels of dust, noise, and could cause subsidence and other dangers.	This aspect of the restricted land framework is to minimise surface impacts on landholders while recognising that in some areas, underground pipelines and cables may be best suited to be installed in corridors that can be in relatively close proximity to buildings. The main impact relating to the underground cable or pipeline on the landholder is the excavation, installation and backfilling of the trench. This would need to be completed within 30 days. The resource authority holder would still need a conduct and compensation agreement, satisfy safety requirements for gas pipelines, and meet any conditions of its environmental authority with respect to noise, dust etc. The proposed framework reflects the current regulatory requirements for this type of activity for landholders affected by the petroleum and gas industry.
			Restricted land - Exemptions	The *Mineral Resources Act 1989* restricted land framework does not provide exemptions. Concerned with this use of regulations as these details should be made available for public comment.	The use of regulations in this proposed framework is to allow for flexibility to adapt to circumstances as they evolve, particularly as this will apply to future applications from the petroleum and gas industry for the first time.
			Restricted land – Prescribed distance	The “prescribed distance” for restricted land is of crucial importance to the interpretation of the clause and valuable submissions on the adequacy of the framework cannot be made without this detail. Concerned this will be in regulations rather than Act.	This and related clauses propose a framework that at its basic level requires resource authority holders to obtain the consent of landholders and occupiers before activities can be undertaken within a certain distance from homes, schools, buildings for business purposes etc. The clause proposes that the actual distances be prescribed by regulation as this can vary depending on the activity type or the type of building or area. The department is of the view that this detail is appropriate to be prescribed by regulation and this aligns with the direction in this Bill to achieve a better balance and effective use of regulations in comparison with the rigid, prescriptiveness of the existing resources Acts. While the distances for restricted land are proposed to be prescribed by regulation under clause 67, a distance of 200 metres has been consulted on in a Regulatory Impact Statement to apply for any exploration and production authorities (e.g. exploration permits, authorities to prospect, mining leases, petroleum leases etc.)

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					and petroleum facility licences, and 50 metres for all other resource authorities including data acquisition authorities, water monitoring authorities and survey licences.
		68	Restricted land – Definition/application	Removing stockyards, bores and other watering points from the definition of restricted land will significantly disadvantage landholders and is considered a huge abrogation of rights.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.
		68	Restricted land	With respect to clause 68(1)(ii)(C), we are concerned that the definition thresholds contained in the Environmental Protection Regulation 2008 (the EPR) are insufficient and do not meet the intent of the clause or offer adequate protections for landholders. For example, a piggery consisting of 380 standard pig units would not qualify as restricted land under the clause. We propose that restricted land be applied to animal husbandry operations that do not meet the intensive requirements of the EPR, as the activities of the resource authority holders will have the same impacts on mid-sized operations as they do on large scale operations.	The Environmental Protection Regulation provides thresholds for these types of activities that are regulated under the environmental protection framework. These types of activities are specifically being included in the restricted land framework to recognise the significance of these activities and that they should have a higher level of protection. This proposed inclusion seeks to strike a balance between these intensive animal husbandry and aquaculture activities and resource activities. Aquaculture and animal husbandry activities that fall short of the 'intensive' threshold will still be afforded the protections under the conduct and compensation agreement (CCA) framework that currently applies.
		68	Restricted land – Point when it applies	The proposal for restricted land to only apply at the time of grant places the rights of landholders behind the interests of those extracting the common resource. For example, if a residence is completed 2 weeks after grant of an authority to prospect, the holder can undertake seismic survey as close to a residence as they wish. It is huge abrogation of the rights of landholders and should be removed. This requirement does not exist under the *Mineral Resources*	The grant of a resource authority was set as the point in time when restricted land applies to achieve some compromise between the existing frameworks this policy is intended to rationalise and to balance the interests of landholders with the proposed resource activity. Restricted land is a new scheme for the petroleum and gas sector; providing additional rights for landholders and occupiers to give consent for activities within a given distance. Regardless of whether restricted land applies, the conduct and compensation agreement (CCA) framework has, and will continue to apply for advanced activities. In the case of the example given, the authority to prospect holder in carrying out a seismic survey would need to have a CCA if it was an

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				Act 1989 with respect to exploration permits or mineral development licences.	advanced activity and also the proximity of the activity would also be governed by conditions on the environmental authority regarding noise, dust, vibration etc. Under the proposed framework, there are differences from how restricted land currently applies under the *Mineral Resources Act 1989*. For mineral and coal exploration permit holders restricted land will apply from the time of grant, rather than at any time. There is also a change for mining claims and leases, and mineral development licences, where restricted land will apply from the time of grant, rather than when the application is lodged.
		68	Restricted land - Regulations	Does not support this regulation-making power as this should be addressed in the Act. The examples provided in the Explanatory Notes provide little certainty and that they should be considered restricted land.	The use of regulations in this proposed framework is to allow for flexibility to adapt to circumstances as they evolve, particularly as this will apply to future applications from the petroleum and gas industry for the first time. The examples provided in the Explanatory Notes of buildings that could be prescribed as those which restricted land would not apply; include a pump shed, hayshed or roadside stall. While this is a matter for consideration during development and consultation on regulations, these examples were provided to give some context to the types of buildings restricted land would be unlikely to apply. In achieving a balance between the interests of landholders and the resources sector, it is considered that these types of structures can be readily managed under the conduct and compensation agreement (CCA) process, as they currently are for the petroleum and gas sector.
		70	Restricted land - Consent required for entry	The inclusion of conditions given to enter restricted land as a condition of the resource authority is welcomed. However, the inclusion of a consequence for breaching the conditions would also be beneficial.	The department thanks Shine Lawyers for their support for the proposed provision. A breach of a condition of a resource authority triggers the non-compliance action provision under the relevant resource Act. For example, under the *Petroleum and Gas (Production and Safety) Act 2004* a compliance direction may be given by a departmental officer to remedy the contravention, where failure to comply with the direction may result in a maximum fine of 500 penalty units. In addition, the Minister can take additional action including: reducing the term or area of the authority, amend or impose a condition, cancel the authority or issue a maximum fine of 2000 penalty units.
		71	Restricted land - Consent not required for entry on particular	We are deeply concerned with the proposal for restricted land to not apply to mining leases. Activity under a mining lease can be extremely intensive. The restricted land	Restricted land for a mining lease is resolved through the mining lease application-grant process under the *Mineral Resources Act 1989* (MRA) only when the Minister considers that the activities carried out on the restricted land, cannot coexist. In this

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			land to carry out prescribed activities for mining lease	provisions currently contained in the MRA are the only protection that the landholder has against the activities occurring in areas of high importance to their lifestyle and business operations – such as the homestead or watering points. By not requiring the resource authority holder to obtain the consent of the landholder to enter the restricted land under a mining lease, a landholder is now forced to agree and simply have the issue fall to compensation. This is, once again, a clear degradation of landholder rights and should be removed. The restricted land provisions currently contained in the MRA are modest and in the least should be retained and if anything expanded to a greater area.	case a compensation agreement is required under the MRA for that land (clause 429). Clause 71 then provides an exclusion from the Chapter 3 restricted land access framework where a compensation agreement has been entered into. The changes in restricted land acknowledge the reality that there are clearly some situations where mining and other uses cannot coexist. With a development such as an open-cut mine for example, restricted land may not apply and the landholder would be compensated accordingly. To recognise this, the Bill includes a requirement that any disadvantage to the owner or occupier of the land be considered before a decision is made about such a mining lease application.
		80	Land access - General liability to compensate	Shine Lawyers submit that the clause be amended to extend the resource authority holder's compensation liability to allow for situations where a landholder whose land is not located in the "authorised area" of the resource authority but which is affected by activity within the resource authority.	This provision has been migrated across from the existing resources Acts and despite a minor change, it is intended to maintain the status quo that only owners or occupiers within the area of the resource authority may be compensated. Impacts such as dust, noise and odour, are regulated in the *Environmental Protection Act 1994*. The environmental authority for the resource authority will impose conditions to minimise and mitigate the impacts of environmental impacts. The general liability to compensate supports the land access framework. The land access framework applies where a resource authority holder requires access to land to undertake authorised activities or to access an authorised area. The resource authority area defines where the land access framework will apply.
		39, 40, 43, 44, 54, 62, 65, 81	The use of regulations	Concern about the use of regulations proposed by the Bill. Some of these regulation-making powers do not currently exist in the existing land access framework. The items proposed to be subject to regulations should be in the Act so that there can be adequate public debate.	The approach taken in the Bill should be considered in the context of the existing resources Acts being very prescriptive. Highly prescriptive, rigid and detailed legislation is restrictive and does not allow the government to be responsive to the dynamic environment within which the resource industry operates. It is important to get this balance right to ensure crucial investment is not lost to other jurisdictions with simplified frameworks. Any new or changes to regulations are still subject to the Regulatory Impact Statement (RIS) System that can require detailed cost-benefit analysis of proposed changes and detailed consultation. All regulations must be tabled in Parliament where a disallowance motion can be moved. The Blueprint (available on DNRM website, p.22) for the strategy on how the department is to operate identifies as a key enabler of reform—the modernisation

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					of our regulatory framework through making sure legislation is practical and easy to administer and removing prescriptive regulations to enable more flexibility for businesses, landholders and the community.
		83	Land access - Negotiations	We note that sub-section (3) provides that the negotiations under clause 83 will end if the parties enter into an opt-out agreement. However, we again note that the provision of a NIN is not, under the Bill, a condition precedent to the entering into of an opt-out agreement. In our view, a NIN must be provided where the resource authority holder has a compensation liability.	The department notes Shine Lawyers suggestion regarding notice of intention to negotiate being utilised for opt-out agreements. However the proposed legislative amendments in respect to opt-out agreements are designed to be as simple and flexible as possible, without unnecessarily introducing uncertainty and complexity. Requiring a notice of intent to negotiate as a condition precedent to entering an opt-out agreement would be inconsistent with this approach.
		90	Land access - Particular agreements to be recorded on titles	Deferral agreements are noted as not binding upon title, but there are circumstances in which agreements to bind transferee's are made and suggest they should therefore be recorded upon title.	The purpose of clause 90 requiring certain agreements to be noted upon title is to ensure that prospective purchasers are well aware of relevant agreements that have been reached between the owner and a resource company, thus allowing them to make an informed decision when contemplating a purchase; something that is not currently available. Deferral agreements are not statutorily binding upon successors and assigns. If a prospective purchaser agrees to enter into a tripartite deed with the landholder and the resource authority holder, that is a private matter for the parties themselves. A prospective purchaser however will not be bound by a deferral agreement they had no knowledge of, or refused to enter. The department therefore considers that noting upon title is an unnecessary burden with no benefit for stakeholders.
15	Shine Lawyers			Suggest access agreements should also be noted upon title due to their binding effect on successors and assigns.	Access agreements are binding upon successors and assigns (clause 79), but as the agreements detail the access of land for the purposes of reaching authorised areas, can involve extremely short periods of time, and do not involve the carrying out of resource activities, requiring notation on title is unnecessary.
				Suggest that when an agreement is removed from the register, it should be a requirement to provide notice to the other party of the agreement.	The department notes Shine Lawyers proposal to require a notice to be provided to the other party to the agreement when requesting the removal of a notation. However it is considered that this would add an unnecessary, additional burden upon parties for no benefit. Removing the notation from title has no effect on the legal nature of the agreement itself; if a party mistakenly removes the notation, this has no impact upon compensation or access. A resource authority holder which mistakenly removes a notice would be in breach of the authority's conditions, and

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					upon discovery, would be required to remedy the situation.
		93	Land access - Compensation not affected by change in administration or of resource authority holder	Deferral agreements and opt-out agreements are not listed as binding. Suggest making these agreements binding upon the resource authority holder, but allow a transferee the ability to continue with an existing agreement.	Clause 93 specifies that conduct and compensation agreements, road compensation agreements, or specified decision of the Land Court are binding upon successors and assigns. This provision has been migrated from the existing resource Acts. Deferral agreements are not currently statutorily binding under the resource Acts, and the Bill has been drafted to maintain the status quo. The department is currently considering whether opt-out agreements should be included within clause 93 as binding on successors and assigns.
		99	Land access - Review of compensation by Land Court	Suggest that a review of compensation liability by the Land Court should be extended to opt-out agreements.	Opt-out agreements are designed to minimise regulatory burden on parties with long standing, positive relationships. Landholders will be informed in prescribed materials that the Land Court will not be able to examine compensation liability under clause 99, and that if they are concerned about the potential for a dispute to arise when compensation liability has been provided for in the agreement, to provide for ADR processes within the opt-out agreement, or request the negotiation of a CCA instead.
				The drafting at sub-section 6(a) appears to be incorrectly worded. It states that the Court must consider "all criteria prescribed by regulation applying for the compensation". We suggest that, perhaps, this should read as "applying for to the compensation", however, as the regulations have not been released we are unsure what the criteria contained in the regulations refers to. Nonetheless, the wording of the phrase is confusing and requires clarification.	Criteria in respect to the compensation agreement will apply 'for' the benefit of initially assessing and determining compensation, and not 'to' determined compensation. The department therefore considers that suggested amendments to clause 99(6)(a) are not required.
		217	Restricted land - Application of new restricted land entry provisions	This clause effectively renders the restricted land provisions contained in Chapter 3, Part 4 of the Bill useless as a significant amount of tenure has already been granted or at least applied for, particularly so for tenure under the P&G Act. We therefore suggest that the clause be amended to apply to all resource authorities granted under the P&G Act, regardless of the date that they were granted.	Many agreements have already been made or negotiations commenced based on the existing legislative framework. The application of the proposed restricted land framework to existing granted, or applications for, resource authorities would have a significant impact on all stakeholders. Particularly if a resource Activity has already begun and it has to stop until consent can be gained, or the activity is already subject to a restricted land framework and differences need to be resolved.

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		Chapter 9, part 3, division 4	Notification and objections - *Amendment of Environmental Protection Act 1994*	Shine Lawyers state that it is claimed that the standard conditions for environmental authorities have been developed though a consultation process and that they do not believe this to be the case. A right to make submissions and consequently object to the conditions of an environmental authority should not be removed and thus placed behind the interest of a private enterprise extracting a State held resource. Mines, by their very nature, frequently have significant impacts on communities and individuals, whether that be from an environmental, social, community, economic or other perspective, and any individual or member of the community should be able to know what mines are proposed and have a right to have a say about the conditions that govern them.	Eligibility criteria and standard conditions must be developed through the process outlined in chapter 5A of the *Environmental Protection Act 1994*. This process was introduced into the legislation in 2012 and commenced in March 2013. An example of this process is the recent development of the eligibility criteria and standard conditions for petroleum activities (including CSG exploration). The eligibility criteria and standard conditions for these activities were developed in consultation with key stakeholders. Draft eligibility criteria and standard conditions were made available for public consultation through the Department of Environment and Heritage Protection's website. The consultation process was held from 28 February to 22 April 2013 and a report was published which outlines the key issues raised during consultation and the resultant actions or responses from the department. This report is available online at http://www.ehp.qld.gov.au/management/non-mining/documents/eligilibity-criteria-standard-conditions-consultation-report.pdf The existing transitional eligibility criteria for mining activities are located in schedule 3A of the *Environmental Protection Regulation 2008*. These eligibility criteria and the standard conditions must be reviewed by March 2016 due to a sunset provision in the transitional arrangements for the legislation which commenced in March 2013. Therefore, the eligibility criteria and standard conditions will be developed through a public consultation process and individuals and members of the community will have a right to have a say about the conditions that govern these small, low risk mines during that process. The change to the *Environmental Protection Act 1994* to remove public notification requirements for 'low risk' mines (i.e. those that comply with the eligibility criteria) reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on

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					people some distance from a proposed mine, such as coal mines, will always be publicly notified.
		262 and 263	Notification and objections - Public notification	Shine Lawyers submit that there has been an error in failing to remove the reference to "other than a mining activity" in section 232(2) of the *Environmental Protection Act 1994*.	The department will seek to rectify this drafting error.
		398 and 420	Notification and objections – Affected persons	We note that this clause inserts a new section 64A into the MRA which obligates an applicant for a mining claim to provide documents and information to each "affected person". However, the definition of "affected person" does not include an occupier of the land the subject of the proposed mining claim or an occupier of land necessary for access to the mining claim. In our view, an occupier of the aforementioned land has just as much right to be aware of the proposed mining claim area as the owner of that land. We therefore submit that the occupier of those lands should be added to the definition of "affected person".	New section 64A maintains the status quo in its definition of affected person. Mining claims are generally small in comparison to mining leases where the Bill proposes to extend notification requirements to occupiers. Holders of mining leases are generally likely to have the capacity to meet this requirement where it may place unnecessary burden on small business where this is currently not required.
		418	Notification and objections – Public notification	We note that the proposed section 252A appears to be the new version of section 252B under the MRA, however, there are crucial differences between the two sections which are objectionable. Notably, the obligation to publish the certificate of public notice in an approved newspaper which circulates in the area has been removed. We again stress that mines by their very nature have a fundamental impact on communities, yet, under this proposal, they will not be notified of the imminence of that impact and nor will they be able to raise an objection to it. It is crucial that public notification of a proposed mining lease occur during the application process and we therefore submit that the public notification requirements of section 252B remain as they currently are.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts

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					beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		423 and 424	Notification and objections – Land Court considerations	The proposed amendments to section 269 of the MRA significantly reduce the matters which the Land Court shall consider when making a recommendation to the Minister that an application for a mining lease be granted in whole or in part. However, in doing so, the amendments also limit the grounds upon which an affected person may object to the mining lease. We note the following as some of the fundamental matters which are proposed to be removed from section 269 of the MRA: (b) the area of land applied for is mineralised or the other purposes for which the lease is sought are appropriate; (e) the term sought is appropriate; (f) the applicant has the necessary financial and technical	The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary jurisdictional overlap and providing more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts under the *Mineral Resources Act 1989*. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the *Mineral Resources Act 1989* to condition. This, in turn, increases the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed

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				capabilities to carry on mining operations under the proposed mining lease; (g) the past performance of the applicant has been satisfactory; (j) there will be any adverse environmental impact caused by those operations and, if so, the extent thereof; (k) the public right and interest will be prejudiced; (l) any good reason has been shown for a refusal to grant the mining lease. The above matters are fundamental and essential grounds of objection. Without these the grounds upon which an affected person may object to are severely limited. We therefore submit that the current section 269 of the MRA should remain "as is". We note that it is proposed to require the minister to consider some but not all of the above matters. However, it seems some essential things will no longer be considered at all including: • If there will be any adverse environmental impact caused by the mine and if so the extent thereof; and • Any good reason has been shown for a refusal to grant the mining lease. We understand that environmental impacts will be considered under the EPA provisions but that is with respect to the granting of an environmental authority not the mining lease. We do not think it is appropriate to delegate the abovementioned powers to the minister. To do so has the very real potential to allow industry to unduly influence outcomes and compromise ministers. It will in the least cause an appearance of lack of impartiality particularly when	to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Land Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.

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				so many objection rights are being taken away.	
		429	Restricted land	We note that it is apparently unjust and unfair to grant a mining lease over all restricted land without the consent of the landholder and to do so abrogates from a landholder's current statutory rights. The activities can have extensive impacts and should not simply fall to an issue of compensation alone. If the amendments are made a landholder will not only be left powerless during negotiations but will also be left with little amenity, privacy or rights to object. We therefore submit that the amendments be excluded from the Bill.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding any such mining lease application.
		567	Legacy boreholes	As currently worded clause 294B has implications well beyond providing a means for addressing what risks may be posed by legacy boreholes (which on the evidence to date would appear to be remote). <u>294B(1): "remediate"</u> We take "remediate" to mean plug and abandon. We submit that it is necessary to be aware of the scale and scope of what is required to plug and abandon a bore or well in order appreciate the imposition involved. "Remediation" involves a significant intrusion and potentially a substantial interference in the farming operations of the landholder. We do accept that some legacy boreholes may present a health and safety risk but we submit that the discretion to authorise a third party to enter private land to "remediate" a bore or well on that land without the consent of the owner	The department thanks Shine Lawyers for their submission. The construction of proposed section 294B is broad to ensure the State is able to authorise action to remediate a bore that presents a safety concern in a range of circumstances and scenarios that are too numerous and sometimes difficult to prescribe in legislation. The intention as set out in the Explanatory notes is to enable the State to authorise parties to remediate legacy boreholes when they present a safety concern. The department agrees with Shine Lawyers that the risk of such incidents as the Kogan event occurring regularly is very low. Where they have occurred on mine sites, they have been readily dealt with. The situation at Kogan was resolved quickly by a collaborative response from industry and government, and without the specific legislation proposed in the Bill. However, the incident occurred on State owned land and discussions following the incident identified constraints for using the same approach in other circumstances and scenarios. In particular, industry identified matters that would require change before committing to any ongoing involvement in remediation of legacy boreholes. The matters of concern related to access if the incident was on private land or on

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				(i.e. destroy a substantial privately owned asset) represents a substantial intrusion upon/retrenchment of private property rights which should be countenanced only in circumstances where it is reasonably justifiable, where no other recourse is reasonably available and even then only if constrained with appropriate protections for the property rights of landholders including access to just compensation for damage or losses incurred. 294B Subclause (a): "poses a risk to life or property" We submit that subclause (a), as currently worded, too lightly dispenses with/offers inadequate protection of private property rights to an unjustifiable degree. We strongly recommend that the test under subclause (a) be made more robust by expressly imposing a standard of reasonableness on the decision making of the Chief Executive and raising the threshold so as to only apply in circumstances of "real and immediate risk" to life or property (Judicial opinion indicates that the test for "real and immediate risk" is a risk which exists, is identifiable, is more than remote or fanciful and which is present and continuing). In light of the above we submit that subclause (a) should be reworded as follows: "(a) a bore or well the chief executive believes, on reasonable grounds, poses a real and immediate risk to life or property;" 294B Subclause (b): "legacy borehole" Firstly, we note that there is conflict between the Explanatory Notes and the actual practical effect of clause 294B. The Explanatory Notes state on page 12 that "legacy boreholes are boreholes or wells drilled for the purpose of coal, mineral, petroleum or gas exploration or production but not by the current tenement holders or their related bodies corporate". However, clause 294B is not strictly limited to "legacy boreholes", rather, it applies also to "a bore or well" - i.e. a water bore used by a Landholder to water a property. The	land that another party had tenure for, indemnity against liability and remediation costs. Another matter identified in developing the legislation related to the inability to ascertain the origin and type of borehole particularly if an urgent response was required, e.g. if the borehole was on fire it would not necessarily be possible to determine whether the bore had been drilled for resources exploration or water. Additional amendments that will allow the holders of tenure to remediate legacy boreholes as an authorised activity of the tenure require the holder to reasonably believe the bore was the result of previous resources operations. The application of existing access, notification and environmental regulation will enable the tenure holder to ascertain the type and origin of the bore. In the event of a fire or other safety concern requiring immediate action, the department was advised that it may not be possible to determine the type or origin or history of the bore prior to remediation action was taken. There are other scenarios that also contributed to the broad construction of section 294B including: not knowing whether the borehole was an old water bore; historically some coal exploration bores have been "given" to landholders for conversion to a water bore, some may not have been converted, some may have been converted but are now not is use but not decommissioned, and the relevant history of the bore may be unknown to the current landholder. Under the proposed construction if urgent action is needed, because of a fire or other emergency, State authorisation can be granted where these matters are not able to be determined. The suggested process for remediation of legacy boreholes set out in the submission presents a specific scenario. In practice the situation will depend on the type and condition of the bore. For example, many boreholes drilled under resources acts and not transferred to the landholder will not have windmills or associated structures, they present as a hole in the ground. The type and condition of the bore to be remediated has been considered in the proposed standards for remediation. In line with the MERCP Bill amendments, the resource Act regulations are to be amended to apply schedule 3 of the *Petroleum and Gas (Production and Safety) Regulation 2004* as the standard for remediation. Schedule 3 is the minimum standard for plugging and abandoning all new and current coal, petroleum and gas boreholes, wells and associated facilities. The regulation amendments will allow the application of schedule 3 to be "as far as practicable". This enables a risk assessment approach to how each legacy bore is remediated. This necessary given the range of circumstances leading to legacy bores, the type of bore, whether there has been previous effort to plug and

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				clause provides for no rights to compensation or notification, yet it effectively enables a person to enter my land and plug a bore that is being used simply because it is emitting gas above the lower flammability limit – which is a comparatively low threshold. There are numerous bores within Queensland that emit varying levels of gas and are relied upon by landholders every day of the week. The proposal contemplated by the clause is therefore simply absurd and requires re-drafting to give effect to the intent of the proposal as explained at page 12 of the Explanatory Notes. <u>294B Subclause (b): "legacy borehole"</u> The DNRM has indicated that a significant number of landholders have applied to have former petroleum bores on their properties transferred to private ownership for conversion to water bores as a consequence of the drought earlier this year. We are aware of former petroleum bores that have been successfully converted for use as water bores and it is not uncommon for landholders to regard former petroleum bores as reserve water bores which they can look to configure in times of drought if need be. If these bores do not present a real and immediate risk to life or property (and we expect that most do not) then we submit that, at a minimum, the relevant landholders should be invited and given a reasonable opportunity to take a transfer of any such bores for conversion to use as water bores. In these circumstances we submit that the most transparent and appropriate course to address legacy boreholes would be to require resources authority holders to reach a negotiated settlement with landholders to plug and abandon such bores and compensate for harms. We submit that this could be achieved by making clear in clause 294B that any remediation authorised under that clause is an 'advanced activity' for the purposes of the P&G Act. This would not impede any remediation required to address emergencies because of the effect of section 500A(f) of the Act and would	abandon or whether the borehole has been left as an orphan. Advice from industry during consultation emphasised that some legacy bores will have been rehabilitated to the standard of the day rather than being abandoned/orphaned bores. The extensive remediation steps outlined in the submission are unlikely to be applied in every situation. In the Kogan incident, the following process was used. After confirmation of a fire at the surface of the borehole, industry and government representatives developed a plan of action, and the department notified adjoining neighbours about the proposed action. Preparatory work to provide access and prepare the site was undertaken prior to the extinguishment of the fire. Another company then attended with a service rig to ream the bore, and cementing and capping the bore in line with abandonment practice. Action to remediate was completed within four days. This followed four days in which the fire was identified, confirmation that the fire involved a borehole, development of a joint government industry plan and notification of neighbours. It is important to note that the construction of the section does not require State action in the range of events presented in the submission, e.g. where gas emissions may be above the LFL but are not a safety concern. There is discretion for the State to determine whether or not an authorisation under section 294B is issued. This is extremely important as it allows a process that can respond to a range of circumstances and landholder perspectives, e.g. - the State can choose not to take on the liability and responsibility for remediation action where a landholder did not want a bore remediated even though it technically met the definition of safety concern provided by the three limbs of section 294B; at the same time the State can at the request of a landholder authorise a person to take immediate action to remediate a bore or well that is on fire or where gas levels present a risk to their life or property. The legislation is drafted to enable action to be taken where there are safety issues presented by legacy boreholes. There is no Government policy to plug and abandon all legacy boreholes. The Government's priority to develop the amendments was to ensure there was a process in place to resolve any future incidents like that at Kogan wherever they occur. The State's activation of the section 294B authorisation will depend on advice from landholders and tenure holders about issues of safety. As noted in the submission the process for proper plugging and abandonment is extensive with appreciable costs. Therefore, it is intended that the authorisation process be limited to where the department has assessed there is a safety concern requiring action. The

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				enable landholders to be compensated for the harms which remediation may entail. 294 Subclause (c): "bore or well on fire": We submit that a bore or well on fire would already be captured by subclause (a). For that reason we submit that the "fire" limb of subclause (c) would be redundant. "emitting gas causing a gas concentration in the surrounding air greater than the lower flammability limit": It is possible that subclause (c), as currently worded, would capture a very large number (possibly even the majority) of existing water bores in western Queensland and if the discretion under subclause (c) were to be actioned even handedly across the board, a substantial number of landholders in western Queensland would potentially be deprived of access to the only source of ground water available in those areas. We submit that the thrust of subclause (c), which we take to be aimed at protecting life and property, would also be adequately addressed by subclause (a). For the reasons above we submit that 294B subclause (c) should be deleted from the Bill.	assessment process will be done in consultation with the landholder where there is no threat to life or property. The department acknowledges there are a variety of scenarios that would be caught by the construction of section 294B. This reinforces the need for a risk assessment process in determining whether an authorisation is granted. The Petroleum and Gas Inspectorate are equipped to make assessment of risk. In any case, the Inspectorate does not condone the lighting of bores.
		567	Legacy boreholes	<u>Make good</u> Under Chapter 3 of the *Water Act 2000* (the Water Act), landholders whose bores are impacted by CSG activities have an entitlement to have the relevant CSG tenement holder provide a make good agreement providing for make good measures in respect of the impairment of the bore(s). We are greatly concerned that clause 294B as currently drafted has the potential to be used as a means to deprive landholders of what is sometimes the only means of leverage to obtain a fair make good offer from resource authority	The introduction of section 294B is to authorise action to remediate a legacy borehole that presents a safety concern. It is not related to separate discussions between a landholder and a tenure holder about make good agreements related to coal seam gas impacts on groundwater. The department considers that these amendments do not alter or impair the ability of either party in the discussion of make good agreements. Similarly, the amendments do not alter or impair another landholder initiative to convert old petroleum and gas wells to water bores. It is also noted that routine remediation of legacy boreholes by tenure holders as an authorised activity connected to their tenure is subject to existing regulatory requirements for access, notification including conduct and compensation agreements as well as relevant environmental requirements.

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				holders for impaired water bores. For that reason we submit that landholders should have a power to veto access for plugging bores or wells on their land that do not pose a real and immediate risk to life or property.	
		567	Legacy boreholes	<u>Just compensation for damage or losses incurred</u> Under clause 294E of the Bill, a person authorised under clause 294B to remediate a bore who enters the relevant land "must not cause or contribute to unnecessary damage to any structure or works on the land" and "must take all reasonable steps to ensure the person causes as little inconvenience and does as little other damage as is practicable in the circumstances". Further, a person authorised under clause 294B is added to the list of persons under section 856(1) of the P&G Act absolved from civil liability for "acts done, or omissions made, honestly and without negligence under this Act" (the list currently refers to persons tasked with directions under or required to administer the Act). Necessary damage to structures or works and a degree of interference and collateral damage appear to be permitted and clause 294 is silent as to compensation for these. We submit that the scope of the types of harms that would be permitted under 294E is not adequately constrained by the existing wording. We expect that in most, if not all cases, the persons who will ultimately be authorised under the Act to 'remediate' will be the relevant CSG tenement holders or their associates. In light of these circumstances we submit that it would be unjust to absolve the resources authority holders from having to provide just and full compensation in respect of the harms they may cause if they seek to 'remediate' bores or wells on private land.	Based on *Mineral Resources Act 1989* provisions to facilitate access for rehabilitation of abandoned mines, the amendments include requirements for notice of entry. If the remediation action is necessary to preserve life or property, notification is within 10 days after the entry is made, otherwise notification is required before entering the land. In situations where it is agreed the safety risk is minimal, an authorisation may not be issued with the landholder opting to manage the risk. There is also a requirement for the people authorised under section 294B to not cause, or contribute to unnecessary damage to any structure or works on the land and must take all reasonable steps to ensure as little inconvenience and do as little damage as is practicable in the circumstances. While similar to the abandoned mine provisions, compensation is not provided for in the legislation, it is not precluded, allowing for negotiation on a case by case basis. The State in authorising a person under section 294B takes on liability and responsibility for the remediation activities.

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				We submit that clause 294 should make provision for affected landholders to be entitled to just and full compensation for all such damages and losses (including any legal, accounting, valuation and other reasonably necessary expert costs) and that the appropriate mechanism for addressing compensation would be to require resource authority holders to reach a negotiated settlement with landholders to plug and abandon such bores and compensate for harms.	
16	Wildlife Preservation Society of Queensland Logan	Refer to Table 3			
17	Queensland Conservation	Refer to Table 3			
18	Mr Graham Slaughter	418 and 420	Notification and objections – Affected persons	Removal of the right to notification of mining lease applications to directly impacted landholders, occupiers, infrastructure providers and local governments will take away the right of neighbours and members of the public to raise concerns about mining operations that, whilst they occur on private property, will nevertheless impact on them through the movement of machinery on public roads as well as issues of noise, dust and extended environmental damage beyond the property on which the operation is based It would seem to be extremely difficult to consider any mining operation to be minor when it cannot fail to impact on persons and properties wider than the property on which the mining operation will take place. Individual property owners often feel powerless to negotiate with mining companies and often lack the knowledge and financial resources to adequately investigate and understand what is being proposed.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts

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				Most agreements also include confidentiality clauses which prevent landholders speaking with their neighbours, and prevent public scrutiny.	beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
19	Donnie Harris Law	68	Restricted land - Definition/ application	Removing stockyards, bores, dams and other key infrastructure from restricted land may result in substantial and disastrous impact on their livelihoods.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.
		Chapter 3, part 2	Land access - Legal Fees	Donnie Harris Law note that they are encountering disputes about whether resource companies are required to reimburse legal fees incurred by a landholder when negotiating a CCA, when the resource company pulls out of negotiations due to the project not proceeding. Suggest a	The department thanks Donnie Harris Law for its submission. The Land Access Implementation Committee (LAIC) was asked to review the heads of compensation to ensure no cost or erosion of landholder rights. An independent consultant was engaged to undertake a comprehensive analysis of the heads of compensation in Queensland, and the LAIC Report concluded that it would not be prudent to further

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				clarification of the law that the requirement to compensate arises from the giving of the notice of intent to negotiate.	legislate the heads of compensation at the current time due to the positive evolution of negotiating practice. The department is committed to implementing the LAIC Report recommendations, including advice regarding the current heads of compensation, in addition to the consolidation of land access provisions.
		80	Restricted land - Compensation regime for land that was previously restricted land	It is not adequate to say that land no longer subject to restricted land can be dealt with under the conduct and compensation regime as it does not account for the fact that a landholder is an unwilling vendor and would not choose to be compensated at land values in a depressed marked.	Clause 80(4) provides a list of categories of effect that compensation may be claimed against. This provision has been migrated across from the existing resource Acts and maintains the status quo. The Land Access Implementation Committee (LAIC) was asked to review the heads of compensation to ensure no cost or erosion of landholder rights. An independent consultant was engaged to undertake a comprehensive analysis of the heads of compensation in Queensland, and the LAIC Report concluded that it would not be prudent to further legislate the heads of compensation at the current time due to the positive evolution of negotiating practice. The department is committed to implementing the LAIC Report recommendations, including advice regarding the current heads of compensation.
		245	Notification and objections	The Bill would remove established statue law rights for some individuals as it would remove the requirement for mining lease and environmental authority applications to be publicly notified. The public should have the right to be informed of the proposed use of these resources and their location. The present process ensures transparency and accountability. There are other ways of streamlining the application and grant process and ensuring that only material objections to the applications are dealt with without removing public notification. Such ways could include for example: 1. Requiring public objectors to provide security for costs; 2. Implementing a fee for the lodgement of a public objection. This alone would weed out who is seriously opposed to the grant of an application from those who are simply lodging	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for consideration as a standard or variation application), and as such, a standard or variation application will apply. These standard and variation applications will not be subject to notification or objection rights. Please note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large

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				objections in the hope of causing delay and inconvenience.	scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified.
		287(2), 315(3), 355, 489(3) and 552(3)	Removal of 600 metre rule	Allowing resource companies to conduct low impact activities with close proximity of a residence is denying individuals of their fundamental right to privacy and amenity. This is a breach of the *Legislative Standards Act 1992* as the legislation does not have sufficient regard to the rights and liberties of individuals and is removing key rights.	Currently a conduct and compensation agreement (CCA) is required for any activity (including preliminary-low impact) within 600 metres of a school or occupied residence (600 metre rule). Preliminary activities involve walking, driving along an existing road or track, taking soil or water samples, geophysical surveys not needing site preparation, some types of minimal impact surveys and survey pegging. Anything else is an advanced activity which includes drilling, clearing, road construction and seismic surveying using explosives. Any advanced activity requires a CCA. While the actual restricted land distance is proposed to be prescribed by regulation, consultation on a proposed distance of 200 metres for exploration and production authorities was undertaken. If this was adopted, it would mean that a CCA for preliminary activities would no longer be required between 600 and 200 metres. Within 200 metres, owners and occupiers would have the right to give consent and any conditions, and in addition a CCA would be required for any advanced activities. Therefore, while a landholder will not have the right to a CCA for preliminary activities between 600 and 200 metres, this is replaced with a much higher level of protection with restricted land applying within 200 metres. The CCA framework and 600 metre rule never gave landholders a right to withhold consent for low impact activities. They will now have this additional and more substantive right.
21	Mr Andrew Rea	68	Restricted land - Definition/application	By removing stockyards, bores and other watering points from the definition of restricted land will significantly disadvantage landholder and impact on their livelihoods. The changes benefit the resource industry but do not preserve individual rights that have been in existence for many years.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
		80	Land access - General liability to compensate	The Bill fails to change the current compensation regime, but preserves the conservative and restrictive heads of compensation that presently stands which are favourable to resource companies. The compensation regime does not account for the fact that in many respects the landholder is an unwilling vendor and would not choose to be compensated at land values in a depressed market.	Clause 80(4) provides a list of categories of effect that compensation may be claimed against. This provision has been migrated across from the existing resource Acts and maintains the status quo. The Land Access Implementation Committee (LAIC) was asked to review the heads of compensation to ensure no cost or erosion of landholder rights. An independent consultant was engaged to undertake a comprehensive analysis of the heads of compensation in Queensland, and the LAIC Report concluded that it would not be prudent to further legislate the heads of compensation at the current time due to the positive evolution of negotiating practice. The department is committed to implementing the LAIC Report recommendations, including advice regarding the current heads of compensation.
		287(2), 315(3), 355, 489(3) and 552(3)	Restricted land - Removal of 600 metre rule	Allowing resource companies to carry out low impact activities within close proximity of a residence is denying individuals their fundamental right to privacy and amenity. These amendments are a breach of fundamental legislative principles as the legislation does not have sufficient regard to the rights and liberties of individuals.	Currently a conduct and compensation agreement (CCA) is required for any activity (including preliminary-low impact) within 600 metres of a school or occupied residence (600 metre rule). Preliminary activities involve walking, driving along an existing road or track, taking soil or water samples, geophysical surveys not needing site preparation, some types of minimal impact surveys and survey pegging. Anything else is an advanced activity which includes drilling, clearing, road construction and seismic surveying using explosives. Any advanced activity requires a CCA. While the actual restricted land distance is proposed to be prescribed by regulation, consultation on a proposed distance of 200 metres for exploration and production authorities was undertaken. If this was adopted, it would mean that a CCA for preliminary activities would no longer be required between 600 and 200 metres. Within 200 metres, owners and occupiers would have the right to give consent and any conditions, and in addition a CCA would be required for any advanced activities. Therefore, while a landholder will not have the right to a CCA for preliminary activities between 600 and 200 metres, this is replaced with a much higher level of protection with restricted land applying within 200 metres. The CCA framework and 600 metre rule never gave landholders a right to withhold consent for low impact activities. They will now have this additional and more substantive right.
		418 and 420	Notification and objections	The Bill would remove established statue law rights for some individuals as it would remove the requirement for mining lease and environmental authority applications to be publicly	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				notified. The resource is a State resource but ultimately it is used or preserved for the public benefit. There is no good reason for not publicly notifying these applications. The public should have the right to be informed of the proposed use of these resources and their location. The present process ensures transparency and accountability.	for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.

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22	Mr Jonathan Peter	418 and 420	Notification and objections	Concerned that the Bill has provisions that will reduce public participation in the approval process for mining proposals, and also reduce landowners rights to information about proposals that might affect their properties. It will dilute and reduce environmental protections and reduce transparency about mining proposals and restrict the public participation of land owners affected.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a

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					balanced approach to notification and objections between industry, and individual landholder and community interests.
23	Juanita Johnston	418 and 420	Notification and objections	The only stakeholder in this multi-dimensional concern who appears to benefit from the proposed changes is the mining industry itself. The current mining lease notification and objection process is the only safeguard for both the mining industry and the community that gives the mining industry our social acceptance. It is intolerable to propose that the only stakeholders with a right to comment on mining lease proposals are those landholders directly affected and the local government authority. There is no case at all to defer consideration of possible compensation payments until after the mining has commenced.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
25	Mr Rick Kilpatrick	Bill as a whole	Consultation on the Bill	Before such sweeping changes are made wide public discussion should be allowed in a time frame more suitable to the length, complexity and grave implications of this new bill.	The department notes the views expressed by Mr Kilpatrick.
30	Mr Chris Dalton	3	MQRA Program	The objective of modernising and harmonising Queensland's resources legislation is laudable as it has the potential to lead to a reduction in costly bureaucratic and legislative overlaps, introduce efficiencies and facilitate substantial economic benefits to Queensland. However, while the Bill considers the interests of landholders, it does not consider the interests of the land itself.	The department thanks Mr Dalton for his support for the proposed amendments. While the Bill itself does not expressly consider the interests of the land, the Bill has been drafted to work as part of the existing resources Acts, whose objectives include minimising land use conflicts and encouraging environmental responsibility and responsible land care management. Additionally, the resources Acts work in tandem with the *Environmental Protection Act 1994*, to ensure the appropriate environmental safeguards are in place to protect the environmental features of the land.
		418 and 420	Notification and objections – Affected persons	In limiting those who can object to the granting of a mining lease, there is no guarantee that the 'affected persons' who are allowed to object will comment on the interests of the land. This will lead to less well-informed decision-making with regard to mining lease applications, as environmental organisations such as Queensland Conservation are better resourced and informed than 'affected persons' on such matters and thus better placed to provide informed comment. If, by such legislative action, the Queensland Government sets in place a process that limits who can represent the interests of the land then, pursuant to honouring the object of the *Environmental Protection Act 1994*, it should itself address how the granting of a mining lease improves "total quality of life". Further to this, equity is raised as a relevant issue in the context of the interests of miners and landowners, but not with regard to the land's interests. There are accountability issues here that the Bill fails to address.	The change to the *Environmental Protection Act 1994* reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. A 'low risk' mine is determined by the ability of the operator to meet eligibility criteria which are currently contained in schedule 3A of the *Environmental Protection Regulation 2008*. These criteria provide a clear definition of when a mine can make a standard or variation application. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on

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				In recognition of the need to address such accountability shortcomings, this Submission advocates that in the assessment of any application for a mining lease, the Queensland Land Court should include an analysis of how granting a mining lease will "improve the total quality of life", as provided for in the *Environmental Protection Act 1994*.	people some distance from a proposed mine, such as coal mines, will always be publicly notified. Standing for notifications and appeals under the *Environmental Protection Act 1994* has not been changed.
		Chapter 3	MQRA Program – Land access	There is not a nationally consistent land access framework to ensure regulatory consistency between the agricultural and energy sectors. It would be unfortunate if the Bill put in place measures that further exacerbate such problems. Mr Dalton suggests the Committee's report should include a list of the consultations the Queensland Government has had with the Federal Government on these provisions.	The concerns raised by Mr Dalton are beyond the scope of the amendments to the land access framework in the Bill. In many ways Queensland is the leader in terms of land access policy and legislation. A number of reviews have been conducted on the land access framework since its introduction in 2010, to ensure the efficacy of the framework in achieving its intended objectives. Recommendations of the Land Access Implementation Committee from the most recent independent process are being implemented through this Bill.
		N/A	MQRA Program	As stated in the Explanatory Notes, the current Queensland legislative framework for the resources sectors contains "some of the most complex and lengthy resources legislation in Australia" (p1). This reflects the dynamic growth and importance of the resources sector, and a desire to have in place appropriate regulation to address the environmental concerns that attend this dynamic growth. Regulatory reform is needed, however, even though resource industries such as Coal Seam Gas (CSG) are still in their infancy. As at 2012, just 0.1% of Australia's potential in-ground CSG reserves had been mined. With this huge growth potential and evolving Australian attitudes towards the way land is valued, reforming legislation is duty bound to anticipate such emerging issues to minimise the scope for future legislation becoming complex and onerous. Deferring questions about environmental issues to some later review of the *Environmental Protection Act 1994* would be inconsistent with the MQRA Program's aim of modernising and harmonising resources legislation.	The MQRA Program consolidation of the five resources Acts does not include matters provided under the *Environmental Protection Act 1994.*

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34	Mr Ralph Prestage	Chapter 3, part 3	Land access – Private land	Expressed concern regarding the Bill, and perceived continuing lack of protection for landholders and agricultural interests. Suggests no entry onto private land without prior agreement between landholder and the mining company, and that a mining company can enter land unannounced and commence drilling is seen as concerning. Suggests arbitration should be utilised where stalemates exist, and that landholders should be fully compensated.	The department notes Mr Prestage's general concerns regarding the Bill. The department however considers that the land access framework provides a balanced approach to the benefit of both industry and landholders. Entry onto land cannot occur without the giving of an entry notice to owners and occupiers as per clause 39. Additionally, advanced activities, which may incorporate drilling, cannot commence until a CCA, deferral agreement or opt-out agreement has been agreed with the landholder as per clause 43. Clause 86 provides that parties may seek a conference or elect an ADR process to resolve issues that are preventing the execution of a CCA. Clause 80 also specifies the resource authority holder's general liability to compensate, which covers items such as damage caused by authorised activities, deprivation of possession of its surface, diminution of value, and accounting, legal or valuation costs reasonably incurred whilst negotiating a CCA (other than the costs of a person facilitating an ADR).
39	Ms Gail Hamilton	245	Notification and objections – Site-specific	Even small mines may last for decades and have serious impacts on our finances, ecology, environment and society. Public objection rights are powerful rights to prevent social and environmental impact. Public objection rights to proposed mines are essential to enable the costs and benefits to be debated openly in Court and to deter the type of corruption seen in NSW. Very few, if any, community objections to proposed mines have been vexatious, most highlight significant concerns and can be a valuable aid to assessing officers.	The change to the *Environmental Protection Act 1994* reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. A 'low risk' mine is determined by the ability of the operator to meet eligibility criteria which are currently contained in schedule 3A of the *Environmental Protection Regulation 2008*. These criteria provide a clear definition of when a mine can make a standard or variation application. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. Standing for notifications and appeals under the *Environmental Protection Act 1994*

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					has not been changed.
		423 and 424	Notification and objections – Land Court considerations	It is inappropriate to restrict matters that the Land Court can consider and give these powers, such as to consider the 'public interest', to the Minister. Decreasing judicial oversight, increasing ministerial powers and shutting out community participation has worrying implications for corruption.	The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary jurisdictional overlap and providing more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts under the *Mineral Resources Act 1989*. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the *Mineral Resources Act 1989* to condition. This, in turn, increases the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Land Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.
7 16 17 20 24 27 28 29 31 32 33 35 36 37 38 40 41 42	The Wilderness Society (Qld) Wildlife Preservation Society of Queensland - Logan Queensland Conservation Ms Symone Male Mr Wayne Reid Ms Robina Cahill Shannon Krebs Mr Anthony Nelson Ms Lorraine Parkin Ms Sonay Duus Mr Mitchell Bright Ms Caroline Rentel	418 and 420	Notification and objections – Affected persons	These clauses remove existing community notification rights and rights to object to mining lease applications. Changing land tenure to allow for mining rather than another land use could impact on a broad section of the public. Therefore the narrow definition of an 'affected person' proposed, which would exclude neighbours or community groups or people in the water catchment, is absurd. Land use decision making processes for other industries provide for community submission and appeal rights, so there is no good reason why mining tenure should be exempt from this basic standard.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 60 61 62 63 64 65 66 67	Mr Clancy Morrison-Van Velsen Mr Howard Bowles Wildlife Preservation Society of Queensland – Bundaberg Mr Patrick Deprez Ms Debbie McIntyre Dorte Planert Mr Paul Freeman Ms Gemma Schuch Mr Colin Stewart Ms Jacinta Tonkin Dr Valerie Lewis Ms Janine Wright Mr James Pauly Ms Angela Shaw				objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.

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68	Ms Hazel Duell				
69	Ms Leonie Lyall				
70	Ms Julie Emery				
71	Ms Lynne Turpie				
72					
74	Ms Jeanette Wehl				
75	Mr Justin Bartlett				
76					
78	Mr Tim Salmon				
80	Mr Trevor Berrill				
81	Ms Robyn Peters				
83	Ms Helen Day				
84	Rod & Pam Elkington				
85					
86	Ms Sandra Dibbs				
87	Ms Nicola Provan				
88	Mr John Cook				
89	Ms Jane Jones				
91	Mr Russell Reinhardt				
92	Maynard Heap				
93	Mr Geoff OConnell				

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
94 95 96 97 98 99 100 101 102 106 109 112 113 114 115 119 122 123 124 125 126 127 128	Lock the Gate Alliance Jaala Stott Ms Maureen Cooper Coal Free Wide Bay Burnett Brian Linforth & Sue Crickitt Ms Rebecca Bell Ms Anna Hitchcock Mr Dylan Graves Mr Peter Forrest Peter & Henny Ralph Ian and Denice Campbell Southern Downs Protection Group Ms Jane Cajdler Dr Jan Aldenhoven Wildlife Preservation Society of				

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
129 131 133 134 135 137 138 139 140 142 144 145 146 149 150 151 152 153 155 156 159 160	Queensland – Sunshine Coast & Hinterland Inc. Ms Caitlin Wollaston Ms Jackie Cooper M. E. Forrest Sustainability Showcase Wide Bay Burnett Environment Council Mr Mark Driscoll Mr Steven Ryan Ms Janette McCann Mrs Diane Douglas Mr Ross Ellis Ms Bronwyn Marsh Ms Janice Watson Ms Thelma Stringer Ms Bethlea Bell				

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
161 164 168 169 170 171 172 176 177 180 182 183 184 185 188 190 193 194 195 198 200	Ms Liz Humphreys Mr David McWilliam Mr Michael Flaherty Ms Julie Cali Ms Tricia Agar Luke and Jean Daglish David and Deborah Edwards Ms Kaili Leadbeatter Mrs Janice Smith Ms Peta Terry Ms Charlene Grainger Ms Jennifer Farrar Ms Megan Perrett Colin and Sue Reynolds Ms Tracey Larkin Mr Allan Sharpe				

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
204 207 209 214 216 220 221 223 224 228 229 230 231 232 233 239 241 242 243 244 245 246 247	Ms Marilyn Livingstone Ms Giselle Burton Ms Rebecca Hilder Mr John Stannard Protect the Bush Alliance Mr Vincent Zaniewski Mr Eric Buden Wildlife Preservation Society of Queensland – Upper Dawson Branch Ms Patricia Cook Ms Monique Filet Mrs Margaret Hilder Ms Audrey Naismith Ms Eloise Telsford Ms Sarah de Wit				

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
251 252 254 255 256 257 258 259 262 263 264 266 267 268 274 276 278 280 281	Ms Penny Allman-Payne Mr Peter Faulkner Mr Andrew Francis Brigden Ms Eleanor Barrett Hillel Weintraub Mr Jonathan Hoch Friends of Stradbroke Island Association Oakey Coal Action Alliance Mr Tom Crothers Mrs Aileen Harrison Ms Susan Oxley Place You Love Alliance Society for Growing Australian Plants Mr Col Thompson				

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
	Ms Bronwyn Marsh Mr Ian McDougall Ms Marial Saren Starbridge Ms Edith McPhee Mr David Arthur Ms Bernice Thompson Ms Alexandra Mercer Ms Carol Booth Friends of Felton Rosewood District Protection Organisation Inc. Ms Susan Beetson & Jeff Hawley DA and KA Yeigh Paula and Ken Outzen Catalyst for Transition				

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
	Ms Joanna Kesteven Ms Cherie Dunshea Ms Nicole Read Ms Veronica Baas Mr Jim Stewart Ms Lynette Singleton Ms Haley Burgess Ms Luana Storni Ms Harsha Prabhu Mr Peter Taylor Mr Jacob van Noord Ms Toni Holland Mr Bruce Mouland Mr Peter Stuart Ms Jodi Pattinson Mount Beppo Community Action Group Aza Saint				

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
	Ms Melissa Bird Mr Peter Davis Ms Dianne Vavryn Andy Tarnish Ms Alison Rickert Ms Louise Rose Ms Sylvia Jahn Ms Jacinta Jackson Mr Peter Smith Ms Kerry Green Ms Karen Klee Ms Francesca Gallandt Mr John Raymond Mr Ken Loughran Ms Ada Medak Sandy Lumley Ms Linda Welch Ms Margaret Andersen Ms Deb Percy				

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
	BJ Bosworth Sapphire Fish Mr Glen Carruthers				
		245	Notification and objections – Site-specific	Limiting community notification and formal objection rights to the Land Court to "site specific" environmental authorities will, in conjunction with the above clauses, remove all existing public rights to lodge formal objections to the Land Court in up to 90% of mining projects in Queensland. This is unacceptable and fails to recognise the positive impact of community objection rights. Suggestions by State government Ministers that objectors lodge frivolous or vexatious cases is entirely untrue, rather the opposite is true: there are no examples of such cases and objectors are very responsible. In the Alpha coal case (2014) the land holders and conservation group exposed that the mining company had a lack of hard data on groundwater impacts. Public spirited objectors went to Court and saved Ellison Reef (1967) from limestone mining and helped show the importance of protecting Fraser Island, now World Heritage Listed (1971).	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for the activity), and as such, a standard or variation application will apply. These standard and variation applications will not be subject to notification or objection rights on a case-by-case basis. Please note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. For example, the Alpha coal case (which is specifically mentioned in the submission) was a site-specific application for an environmental authority which had also had an Environmental Impact Statement prepared and published for comment under the *State Development and Public Works Organisation Act 1971*. A site-specific application would also be required for any mining application in an area like Ellison Reef or Fraser Island, due to their location and the operation of

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					eligibility criteria which requires a site-based assessment for activities within or near 'category A environmentally sensitive areas'.
		423 and 424	Notification and objections – Land Court considerations	It is inappropriate to restrict matters that the Land Court can consider and give these powers, such as to consider the 'public interest', to the Minister. Decreasing judicial oversight, increasing ministerial powers and shutting out community participation has worrying implications for corruption.	The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary jurisdictional overlap and providing more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts under the *Mineral Resources Act 1989*. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the *Mineral Resources Act 1989* to condition. This, in turn, increases the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Land Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act*

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					1994 in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.
		429	Restricted land	Removal of restricted land status when the miner is granted exclusive surface rights to access land removes one of the few rights of vulnerable landholders. No-one should have the land surrounding their house destroyed by an open-cut mine yet this would be possible under this clause.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding any such mining lease application.
		N/A	Notification and objections	I call on the Committee to please ask Minister Cripps to provide exact figures on how many of the 176 submitters to the discussion paper opposed changes to existing objection rights and detailed examples of alleged cases of vexatious objections. According to EDO Qld, at least 106 submissions of a total of 176 submissions on the discussion paper, from both rural and urban submitters, opposed the changes. Yet Minister Cripps does not report this key fact in p47-48 of the explanatory notes.	The department advises that 176 submissions to the discussion paper titled 'Mining lease notification and objection initiative' were received from individuals (98), community groups (13), landholders or landholder representatives (20), environmental groups (26), miners (6), peak industry bodies (2), the Local Government Association of Queensland, Indigenous representative bodies (2), law firms (2), Queensland Law Society, infrastructure providers (2), the Construction, Forestry, Mining and Energy Union (CFMEU) and the Queensland Tourism Industry Council. One submission was signed by 44 individuals. The department has recently published the Decision Regulatory Impact Statement (RIS) for Notification and Objections on the Department's website. It will also be posted on the Department of Environment and Heritage Protection's website as well as the Office of Best Practice Regulation's website. The department will also

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					be taking steps to advise each submitter of its release. A broad summary of submissions is provided in Section 7 of the Decision RIS dealing with the results of consultation and a more detailed summary of individual submissions is included in Appendix 4 Table 1 of that document.
44	Ms Gemma Schuch	418 and 420	Notification and objections – Affected persons	It is not right that neighbours might not be able to object to the decision to grant mining lease tenure, unless their land is needed for access. Groundwater, surface water, infrastructure and economic change greatly affect people whose land is not directly and obviously affected by a mining development. Also, freedom to information is also essential in any democratic society. People should be publicly notified of all mining developments, not just those deemed 'high risk'.	The change to the *Environmental Protection Act 1994* reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. A 'low risk' mine is determined by the ability of the operator to meet eligibility criteria which are currently contained in schedule 3A of the *Environmental Protection Regulation 2008*. These criteria provide a clear definition of when a mine can make a standard or variation application. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. Standing for notifications and appeals under the *Environmental Protection Act 1994* has not been changed.
48	Ms Janine Wright	418 and 420	Notification and objections	I believe strongly that communities should have a say in what mining activities are undertaken in them. I also believe that children who live near proposed mines, and adults for that matter, should be protected from any adverse health effects, if these are found to exist. To that end there needs to be careful examination of any mining applications to make sure the health and safety of the communities are considered.	The change to the *Environmental Protection Act 1994* reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. A 'low risk' mine is determined by the ability of the operator to meet eligibility criteria which are currently contained in schedule 3A of the *Environmental Protection Regulation 2008*. These criteria provide a clear definition of when a mine can make a standard or variation application. Where the environmentally relevant activity for a mining project does not meet the

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					eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. Standing for notifications and appeals under the *Environmental Protection Act 1994* has not been changed.
58	Russell, Lyn and Doug Bennie	Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 – division 7 part 9 – division 6 part 10 – division 7	Legacy boreholes	There is no adequate description as to what constitutes a legacy bore - is it an old exploration bore placed and irresponsibly left by the mining industry, or a old or current use water bore used by farmers?	The definition of legacy borehole is included in amendments to each of the resources Acts, see clauses 298, 326, 385, 502 and 569. As noted in the corresponding explanatory notes for these clauses, the intention is to capture boreholes or wells drilled for the purpose of resources exploration or production, or to inform resources exploration, but not drilled by the current tenement holders or their related bodies corporate, (i.e. the land has been relinquished or there is no continuity of tenure to the current holder). The inclusion of the provision for holders to "reasonably believe" is to enable action where it is not possible to prove the type and ownership of a particular borehole. It is also important to note that the definition in the above clauses includes a provision that it is a well or bore that is no longer used for the original or another purpose. This means that where a bore is being used for water it would not meet the definition of legacy borehole. The proposal for the State to authorise remediation action where there is a safety concern with a bore does extend to water bores ONLY where there is a risk to life or property, or if it is on fire or emitting gas causing a gas concentration in the surrounding air greater than the lower flammability limit.
		Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6	Legacy boreholes	The ability for an organisation to access and impact our land and business at their will and desire under any pretence is simply not right. This will not be tolerated - particularly as assurances were given by the CSG industry that this migration of escaped gas was not going to occur and are not detailed as a impact to the environment in any Environmental Impact Statements (EIS).	Companies holding tenure may remediate legacy boreholes subject to existing regulatory requirements for conduct and compensation, notification and environmental matters. No company can take emergency action to remediate bores presenting safety concerns without prior authorisation by the State. It is also noted that migration of gas has occurred in the past, regardless of CSG activity.

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		part 7 – division 7 part 9 – division 6 part 10 – division 7			
		Chapter 3, part 2	Land access – Opt out	It is easily apparent that CSG companies will offer the "opt out option" as another way to deceive and confuse landholders who lack the same working knowledge as the aggressive representatives that represent CSG companies.	The department is committed to implementing the Land Access Implementation Committee (LAIC) recommendations, including recommendation 4.2 which requires the development of a factsheet by the department to be provided to landholders prior to the execution of an opt-out agreement. This is designed to ensure landholders are aware of the implications and consequences of entering into such an agreement. All landholders can refuse to engage in signing an opt-out agreement, and ask for the commencement of negotiations for a conduct and compensation agreement if beneficial for their particular circumstances.
		Chapter 3, part 2	Land access – Negotiation of agreement	The fault of failure to negotiate an agreement with a landholder lies with the CSG companies. Forced mediation and threat of Land Court proceedings serves only as a threat to landholders as there are concerns about contamination of drinking water supplies and environmental impacts.	The granting of a resource authority confers a right to develop a resource held by the State. This requires a mechanism for the resource authority holder to gain access to land to exercise this right. The land access chapter proposed in this Bill in most respects reflects the existing framework currently in place and seeks to get the balance right between the interests of landholders and the resources sector. The mediation and independent review by the Land Court is only intended to provide an avenue for disputes to be resolved. Importantly for landholders, this Bill introduces the restricted land framework. For the first time, landholders affected by future applications by the petroleum and gas sector will gain the right to withhold consent to the majority of resource activities within close proximity to their homes and some business premises. The restricted land framework also applies to neighbouring buildings outside the boundary of the resource authority where the existing conduct and compensation agreement (CCA) framework does not. In addition, the Bill implements recommendations from a recent independent review of the land access framework that resulted from an extensive period of consultation. This originated with the report of the Land Access Review Panel released in July 2012, the subsequent *Queensland Government Response to the report of the Land Access Review Panel*, the *Six Point Action Plan*, and finally the *Land Access Implementation Committee Report*.

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59	Jindal Steel and Power (Australia) Pty Ltd	145	Overlapping tenure - Authorised activities allowed only if no adverse effects	In theory this section is the one that gives us the most hope in so far is it should allow us to gain entry to the tenement so long as our activities have no "Adverse Effects" on the PL Holder. But what is the definition of "no adverse effects". It is such a subjective statement that as it stands no matter how much we believe that we will have no "adverse effects" we will have no recourse if the PL Holder believes there will be. As it stands the proposed law has no teeth and will be used by the PL Holder to brush aside any overlapping tenure holder by simply claiming that there could or will be adverse effects. For example the PL Holder can simply say that there is a chance that the overlapping tenure holder may damage "the good relations" which have been established with land owners. This is absolutely correct, it is a possibility, and it would be an adverse effect, but how can we prove that we wouldn't do this? This section needs more definition to detail how "no adverse effects" is to be interpreted and ruled upon.	The department notes Jindal Steel and Power's concern regarding the definition of "no adverse effects". The department will work with industry to resolve the matter.
		147	Overlapping tenure – Exchange of information	This section provides encouragement that overlapping tenure holders will be required by law to share information. Unfortunately however the list of nine different criteria of information ((a)- (i)) fails to include the most important information that either party would be most interested in, that is the results of exploration that has been completed to date. It is matter of interpretation as to whether exploration data comes under the fold of the first part of the section which states "The resource authority holders for an overlapping area must give each other all information reasonably necessary to allow them to optimize the development and use of the coal and coal seam gas resources". To remove all doubt, if this is the intent, the sharing of exploration data should be included as additional criteria (j) under the second part of the section.	The department notes Jindal Steel and Power's concern regarding the criteria for information exchange under clause 147. The department will work with industry to resolve the matter.

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		147	Overlapping tenure – Exchange of information	The section is vague as to whether there should be any costs paid for the information exchange. In the absence of any definition one can only presume that information is to be passed on free of charges. This is probably unreasonable especially if the information transfer is only happening in one direction .While I do not believe there should be a charge passed on for the cost of gathering raw data e.g. exploration data, I think it is reasonable to expect some compensation for the time it takes the personnel of the company that has the data to gather it and pass it on to the company that is requesting it, i.e. a nominal labour compensation charge. The issue of payment for data should be clarified with guidelines within the section. If the intent is for information exchange to be completely free of charge it should say so.	The department notes Jindal Steel and Power's concern regarding payment for information exchange under clause 147. The department will work with industry to resolve the matter.
		221	Overlapping tenure – Exploration permit (coal) granted over existing PL	I found this section very difficult to read but in the end I interpreted it to mean that there will be no retrospectivity with regard the enactment of the Bill to existing engagements that exist between EPC and PL Holders. In other words all the positives that may have been provided for in the Bill, with regard provisions for gaining access to explore and to share information, will not be enforceable in the specific case of our Roma EPC. If this is the case it will make a complete mockery of the entire Bill as the vast majority of conflicts that will ever exist between coal and coal seam gas producers exist right now not in the future. It will be a Bill that by its own wording debunks its own application, so why even bother with it? The enactment of the Common Provisions Bill needs to be made retrospective of all existing engagements between Coal and Petroleum Tenure Holders.	The department notes Jindal Steel and Power's concern that chapter 4 of the Bill does not provide a retrospective framework for all existing arrangements between Coal and CSG tenure holders. This approach in the Bill is consistent with the position in the White Paper.
		232	Overlapping tenure – Extension of period until mining	The Cart blanch provision of a nominal16 year period in which proponents looking to develop coal assets in the Surat Basin will have to wait (after the issue of an ML) before any physical commencement of operation is allowed, is a	The department appreciates that the matter of transitional arrangements for the Surat Basin geographical area is a contentious issue for the resource industry. This is evident in the fact that the parties failed to reach an agreed position on the matter in the White Paper and turned to government to resolve this matter. In

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			commencement date	ridiculous impost to make. How can such a generic number be implied across the entire industry which will effectively stifle mining development of the Surat. Every situation and overlapping tenure should be examined on a case by case basis. In many circumstances the coal seams that the coal proponents are interested in will be above the horizon that gas producers need. There is no reason why the two can't in many circumstance happily co-exist side by side without having to wait 16 years. In 16 years' time from now, will it still be relevant to expect a mining company (new on the seen) to wait another 16 years because of this Jaw? Coal mining proponents in the Surat have no interest in disrupting the current or future activities of coal seam gas producers. All we are interested in is gaining fair access to explore and then work in with the development plans of existing gas producers whether this require a wait period of 16 years or 30 years or only a couple of years .It is ridiculously rigid and unworkable to nominate a set period. The problems with overlapping tenure that prompted the creation of the Common Provisions Bill is really a problem specific to the Surat Basin. The inclusion of Division-S which sets the Surat apart from the rest of the State with provisions that are quite unfair to coal producers, makes as previously stated a mockery of the Bill as it will basically achieve nothing where it is most needed! There should be no separate provisions within the Bill for the Surat Basin. There should be provisions that give surety to coal seam gas producers where they are "first on the seen" and require mining companies to work in with their plans of on a case by case basis so that mine development wait periods are minimised.	developing a policy position on the issues, government has attempted to seek a 'middle-ground' position and remain consistent with the principles of the framework. Clause 114 of the Bill provides some flexibility for the parties to agree to a mining commencement date that is earlier than one that is provided in the chapter. However, there seems to be issues of clarity and interpretation with this clause. Therefore the department is investigating options to clarify that the parties may agree to a mining commencement date different to that established in clause 232, therefore making clear the opportunity for the parties to negotiate a truncated notification period.
		Chapter 4, part 4, division 3	Overlapping tenure – Compensation	In circumstances of overlapping tenure where coal companies are either denied access to explore, or denied access to information to allow continuance of study, or a	The department notes Jindal Steel and Power's views regarding annual licence fees and renewal of environmental authorities. However, this is outside the scope of the White Paper.

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				prevented from physically starting mining operations e.g. by an arbitrary 16 year wait period; then in these circumstance there should be a provision that allows for the coal company to be compensated financially for the annual cost of renewal of exploration and or mining licenses and Environmental Authorities. There should be a new provision that exempts EPC or Ml holders from the payment of annual license fees and renewal of Environmental Authorities while they are prohibited by legislation from undertaking the activities under which the licenses and authorities were issued.	
67	Ms Jane Jones	418 and 420	Notification and objections	I am a resident of the town of Aldershot Queensland. I live within three kilometres of the proposed Colton mine. I believe these changes to the Bill will impact my right to public objection to proposed mine sites which will impact on my lifestyle and surrounding environment. I wish to register my opposition to the proposed Bill changes and retain my right to objection.	The change to the *Environmental Protection Act 1994* reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. A 'low risk' mine is determined by the ability of the operator to meet eligibility criteria which are currently contained in schedule 3A of the *Environmental Protection Regulation 2008*. These criteria provide a clear definition of when a mine can make a standard or variation application. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. Standing for notifications and appeals under the *Environmental Protection Act 1994* has not been changed.
71	Lock the Gate Alliance	423 and 424	Notification and objections	The proposed changes will mean far fewer people will be able to object to mining leases and landholder's rights will be weakened. The system is already stacked against	The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary jurisdictional overlap and providing

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				landholders and communities and this will make it even worse. It is vital that full objection rights are maintained to ensure that the public interest in the future of Queensland is given a voice. Otherwise, we are handing over our public interests and common rights to foreign-owned mining companies and their shareholders, allowing all the costs and impacts to be incurred on local communities and allowing all the benefits to be shipped offshore. Current legal rights are essential to ensure that the basic public interest is allowed to be explored in a court of law. The Independent Commission Against Corruption in NSW has identified merits appeal rights for the public as a crucial measure to curtail corruption, because a decision-maker that knows any decision they make can be tested in court has to ensure the decision is made well and in accordance with the law.	more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts under the *Mineral Resources Act 1989*. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the *Mineral Resources Act 1989* to condition. This, in turn, increases the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Land Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					individual and community interests.
76	Brian Linforth and Sue Crickitt		Notification and objections	We are residents of a township of Aldershot (pop 1042) where an open cut coal mine is proposed within 2.14 kms. From our residences and we have grave concerns regarding dust and noise pollution. The bill being proposed would remove the right of any of us to be able to challenge this project in the land court as our properties are not actually on the proposed mine site. The mine proponents now known as Colton Coal have tried twice before to gain approvals from DERM and now have submitted a third EMP for consideration to Dept. of Environment and Heritage. You will understand our doubts that in spite of hiring probably the best consultants, approval has not been given and the proposal deserves the challenge in court. We have submitted e-petitions / written petitions / submissions to Govt Depts and the Ministers and staged numerous street protests but to no avail. Taking away an individual's right to have a court decide if this mine should proceed is un Australian and should not proceed! The court assessment would allow a decision, which would not be biased by a Govt. Attitude to create more mines in spite of all other considerations.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. Coal projects do not meet the eligibility criteria and therefore must be made as a site-specific application for an environmental authority. Therefore, there is no curtailment of community rights for the environmental authority for these projects. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application.

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					The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		Refer to pages 6-8 of this table for additional responses to issues raised.			
77	Ms Jayn Hobba	418 and 420	Notification and objections	This bill effectively removes all of our right to prevent mining exploration on our properties by objecting, and just as insidious, the right of our neighbours who have farming interests to also object. In effect, if passed, it means that community consultation is unnecessary. It is the 90% of mining approvals that have one less barrier to overcome rather than the 10%. Communities must have a role in stopping the corruption and erosion of the democratic process.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally

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					includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests. The 90% of applications that adjoining landholders and the community will no longer have a right to object to is the 90% of applications that they currently do not object to under either the *Mineral Resources Act 1989* or *Environmental Protection Act 1994*.
73 79 90 120 121 132 136 143 147 158 165	Cowan and Helen Keys Raymond and Pamela Howe Bruce and Annette Currie Mrs Lyla Lobwein Mr David Lobwein Ms Judy Pownall Ms Merula Dowdling	39, 40, 43, 45, 54, 67, 68 and 81	The use of regulations	Especially concerned some matters have been left for the regulations to prescribe. How will change in rights be known until after they are passed, how can valuable and considered submissions on the Bill be made, how will the content of the regulations be consulted?	The approach taken in the Bill should be considered in the context of the existing resources Acts being very prescriptive. Highly prescriptive, rigid and detailed legislation is restrictive and does not allow the government to be responsive to the dynamic environment within which the resource industry operates. It is important to get this balance right to ensure crucial investment is not lost to other jurisdictions with simplified frameworks. Any new or changes to regulations are still subject to the Regulatory Impact Statement (RIS) System that can require detailed cost-benefit analysis of proposed changes and detailed consultation. All regulations must be tabled in Parliament where a disallowance motion can be moved. The Blueprint (available on DNRM website, p.22) for the strategy on how the department is to operate identifies as a key enabler of reform—the modernisation of our regulatory framework through making sure legislation is practical and easy to administer and removing prescriptive regulations to enable more flexibility for businesses, landholders and the community.

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166 167 173 197 208 213 215 225	Paul & Janeice Anderson Mr Max Scholefield Mr Ralph Valler Bill Dorney and Debbie Mitchell Mr Herbert Bruggemann Peter & Julia Anderson Basin Sustainability Alliance Ms Margaret Doyle Kenneth William & Rita Claire Varidel Bruce and Wendy Derrick W.R. Easton and C.A. Bettridge Mr Kelvin Sypher				
		45	Land access - Right to elect to opt out	Expresses concerns about the benefit of opt-out agreements to landholders, and objects to inclusion within the Bill.	The department notes the concerns raised. However the opt-out agreement framework was recommended by the LAIC Report, which resulted from a prolonged and extended period of review and consultation with peak agricultural and industry representatives. The department is committed to implementing the LAIC recommendations, including recommendation 4.2 which requires the

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					development of a factsheet by the department to be provided to landholders prior to the execution of an opt-out agreement. This is designed to ensure landholders are aware of the implications and consequences of entering into such an agreement.
		68	Restricted land - Point when restricted land applies	The proposal for restricted land to only apply at the time of grant places the rights of landholders behind the interests of those extracting the common resource. For example, if a residence is completed 2 weeks after grant of an authority to prospect, the holder can undertake seismic survey as close to my residence as they wish. Such a proposal is unjust to landholders and a degradation of rights.	The grant of a resource authority was set as the point in time when restricted land applies to achieve some compromise between the existing frameworks this policy is intended to rationalise and to balance the interests of landholders with the proposed resource activity. Restricted land is a new scheme for the petroleum and gas sector; providing additional rights for landholders and occupiers to give consent for activities within a given distance. Regardless of whether restricted land applies, the conduct and compensation agreement (CCA) framework has, and will continue to apply for advanced activities. In the case of the example given, the authority to prospect holder in carrying out a seismic survey would need to have a CCA if it was an advanced activity and also the proximity of the activity would also be governed by conditions on the environmental authority regarding noise, dust, vibration etc.
		68	Restricted land - Definition/ application	The removal of stockyards, bores, dames and other infrastructure from restricted land will place farmers and others at a significant disadvantage in what is already an imbalanced negotiation. Do not want the restricted land regime for mineral and coal activities but supports extending this current regime to petroleum and gas activities.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.
		217	Restricted land – Transitional provisions	As a significant amount of tenure has already been granted or applied for, the majority of landholders affected by coal seam gas activity will not benefit from the proposed restricted land framework.	Many agreements have already been made or negotiations commenced based on the existing legislative framework. The application of the proposed restricted land framework to existing granted, or applications for, resource authorities would have a significant impact on all stakeholders. Particularly if a resource Activity has already begun and it has to stop until consent can be gained, or the activity is already subject to a restricted land framework and differences need to be resolved.
		239-266	Notification and objections – Site-	The amendments to the EPA effectively mean that public notification will only be required for site-specific	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
			specific	Environmental Authority applications/variations. Standard applications will not require any form of public notification and, as a consequence of that, a submission cannot be made by a member of the public on such an application, regardless of the impact that it may have. Such a proposal is fundamentally unfair and unjust to Queensland citizens.	Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for consideration as a standard or variation application), and as such, a standard or variation application will apply. These standard and variation applications will not be subject to notification or objection rights. Please note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified.
		398 and 418	Notification and objections – Affected persons	Under the Bill, a person who lives next door to a proposed open cut coal mine and is likely to suffer impacts such as dust, light and noise disturbance, will have no rights to object to the granting of the mining lease as they do not fail within the definition of an affected person. How can a person who suffers the impacts of the mining lease (i.e. a neighbour) not be an affected person'? Why will community groups not be able to have a say about what happens in their community?	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a

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					site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		423 and 424	Notification and objections – Land Court considerations	The submission raised concerns that many issues that the Land Court now considers in hearing an objection to a mining lease and environmental authority will no longer be considered by the Land Court- an independent body but rather the Minister.	The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary jurisdictional overlap and providing more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts under the Mineral Resources Act 1989. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the *Mineral Resources Act 1989* to condition. This, in turn, increases

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Land Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.
		Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 – division 7	Legacy boreholes	The major problem with this proposal is that the ability to remediate a bore or well is not strictly limited to 'legacy boreholes'. Under the clause, anyone who is authorised by the Chief Executive can remediate any bore which is emitting gas above the lower flammability limit – i.e. a water bore used by a landholder to water a property. The clause provides for no compensation or notification, yet it effectively enables a person to enter the land and plug a bore that is being used simply because it is emitting gas above the lower	It is important to note that the construction of the section does not require State action in the range of events presented in the submission, e.g. where gas emissions may be above the LFL but are not a safety concern. There is discretion for the State to determine whether or not an authorisation under section 294B is issued. This is extremely important as it allows a process that can respond to a range of circumstances and landholder perspectives, e.g. - the State can choose not to take on the liability and responsibility for remediation action where a landholder did not want a bore remediated even though it technically met the definition of safety concern provided by the three limbs of section 294B; at the

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		part 9 – division 6 part 10 – division 7		flammability limit – which is a comparatively low threshold. There are numerous bores within Queensland that emit varying levels of gas and are relied upon by landholders every day of the week. The proposal contemplated by the clause is therefore simply absurd and requires re-drafting to give effect to the intent of the proposal as explained at page 12 of the explanatory notes.	same time the State can at the request of a landholder authorise a person to take immediate action to remediate a bore or well that is on fire or where gas levels present a risk to their life or property. The legislation is drafted to enable action to be taken where there are safety issues presented by legacy boreholes. There is no Government policy to plug and abandon all legacy boreholes. The anticipated likelihood of incidents as occurred at Kogan (2012) is very low and the Government has been clear that this initiative is not part of an overarching program to deal with all legacy boreholes but rather is directed toward providing a mechanism that if there is an incident that the State can authorise action to remediate the borehole regardless of where it occurs, whether or not the type or origin of the bore can be determined. The situation at Kogan was resolved quickly by a collaborative response from industry and government, and without the specific legislation proposed in the Bill. However, the incident occurred on State owned land and discussions following the incident identified constraints for using the same approach in other circumstances and scenarios. In particular, industry identified matters that would require change before committing to any ongoing involvement in remediation of legacy boreholes. The matters of concern related to access if the incident was on private land or on land that another party had tenure for, indemnity against liability and remediation costs. In the event of a fire or other safety concern requiring immediate action, the department was advised that it may not be possible to determine the type or origin or history of the bore prior to remediation action was taken. There are other scenarios that also contributed to the broad construction of section 294B including: not knowing whether the borehole was an old water bore; historically some coal exploration bores have been "given" to landholders for conversion to a water bore, some may not have been converted, some may have been converted but are now not is use but not decommissioned, and the relevant history of the bore may be unknown to the current landholder. Under the proposed construction if urgent action is needed, because of a fire or other emergency, State authorisation can be granted where these matters are not able to be determined. Therefore, it is intended that the authorisation process be limited to where the department has assessed there is a safety concern requiring action. The assessment process will be done in consultation with the landholder where there is no threat to life or property. The department acknowledges there are a variety of scenarios that would be caught by the construction of section 294B. This reinforces the need for a risk assessment process in determining whether an

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					authorisation is granted. The Petroleum and Gas Inspectorate is equipped to make assessment of risk.
82	Eion and Anne Anderson	45	Land access - Right to elect to opt out	Objects to proposed opt-out agreements.	The department notes the concerns raised by Eion and Anne Anderson. However the opt-out agreement framework was recommended by the LAIC Report, which resulted from a prolonged and extended period of review and consultation with peak agricultural and industry representatives. The department is committed to implementing the LAIC recommendations, including recommendation 4.2 which requires the development of a factsheet by the department to be provided to landholders prior to the execution of an opt-out agreement. This is designed to ensure landholders are aware of the implications and consequences of entering into such an agreement.
		Chapter 3, part 4	Restricted land	Strongly objects to the amendments to restricted land.	The department thanks Eion and Anne Anderson for their submission and notes the views expressed. For the first time, landholders affected by future applications by the petroleum and gas sector will gain the right to withhold consent to the majority of resource activities within close proximity to their homes. The restricted land framework also applies to neighbouring buildings outside the boundary of the resource authority where the conduct and compensation agreement (CCA) framework does not. For landholders affected by the mineral and coal sector, the department has consulted on a proposed restricted land distance of 200 metres. This is double the existing distance under the Mineral Resources Act 1989. While stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply, will no longer be restricted land, this infrastructure is already managed under the CCA framework for the petroleum and gas sector. The proposed changes ensure that this approach is consistent across all resource sectors.
		Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 – division 7	Legacy boreholes	Strongly objects to the remediation of bores.	The department notes the strong objection to the remediation of bores. The proposed amendments do not require remediation of bores but they do allow action in certain circumstances, e.g. where there is a fire or gas emission that could result in a fire.

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		part 9 – division 6 part 10 – division 7			
103	Mr David Loft	418 and 420	Notification and objections	Decreasing communities ability to object to and express community decisions on outside influences such as mining companies interference with their community is not a step towards a stronger society, at best it is decreasing rights and bringing more awareness to the influence that these companies have.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application.

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					The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
104	Mr George Depenning	429	Restricted land	Removal of restricted land status when the miner is granted exclusive surface rights to access land removes one of the few rights of vulnerable landholders. No-one should have the land surrounding their house destroyed by an open-cut mine yet this would be possible under this clause.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding any such mining lease application.
		423 and 424	Notification and objections – Land Court considerations	It is inappropriate to restrict matters that the Land Court can consider and give these powers, such as to consider the 'public interest', to the Minister. Decreasing judicial oversight, increasing ministerial powers and shutting out community participation has worrying implications for corruption.	The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary jurisdictional overlap and providing more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts under the Mineral Resources Act 1989. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the *Mineral Resources Act 1989* to condition. This, in turn, increases

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Land Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.
		245	Notification and objections – Site-specific	Limiting community notification and formal objection rights to the Land Court to "site specific" environmental authorities will, in conjunction with the above clauses, remove all existing public rights to lodge formal objections to the Land Court in up to 90% of mining projects in Queensland.	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for consideration as a standard or variation application), and as such, a standard or variation application will apply. These standard and variation applications will not be subject to notification or objection rights. Please note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified.
105	Mr Justin Leckner	423 and 424	Notification and objections – Land Court considerations	It is inappropriate to restrict matters that the Land Court can consider and give these powers, such as to consider the 'public interest', to the Minister. Decreasing judicial oversight, increasing ministerial powers and shutting out community participation has worrying implications for corruption.	The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary jurisdictional overlap and providing more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts under the Mineral Resources Act 1989. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the *Mineral Resources Act 1989* to condition. This, in turn, increases the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Land

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.
		429	Restricted land	Removal of restricted land status when the miner is granted exclusive surface rights to access land removes one of the few rights of vulnerable landholders. No-one should have the land surrounding their house destroyed by an open-cut mine yet this would be possible under this clause.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding

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					any such mining lease application.
		419 and 420	Notification and objections – Affected persons	These clauses remove existing community notification rights and rights to object to mining lease applications. Changing land tenure to allow for mining rather than another land use could impact on a broad section of the public. Therefore the narrow definition of an 'affected person' proposed, which would exclude neighbours or community groups or people in the water catchment, is absurd. Land use decision making processes for other industries provide for community submission and appeal rights, so there is no good reason why mining tenure should be exempt from this basic standard.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available.

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					As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
107	Ms Elizabeth Kelly	418 and 420	Notification and objections – Affected persons	It would be a travesty if the rights of the landowners in neighbouring properties, towns, cities and States are NOT entitled to have their democratic rights addressed.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application.

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					The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
108	Ian Clark	419 and 420	Notification and objections – Affected persons	These clauses remove existing community notification rights and rights to object to mining lease applications. Changing land tenure to allow for mining rather than another land use could impact on a broad section of the public. Therefore the narrow definition of an 'affected person' proposed, which would exclude neighbours or community groups or people in the water catchment, is absurd. Land use decision making processes for other industries provide for community submission and appeal rights, so there is no good reason why mining tenure should be exempt from this basic standard.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local

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					governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
110	Mr Gary Dwyer	Bill as a whole	Bill as a whole	Mr Dwyer opposes the Bill.	The department thanks Mr Dwyer for his submission.
111	Mr Bill Foster	Bill as a whole	Bill as a whole	Mr Foster opposes the Bill.	The department thanks Mr Bill Foster for his submission.
116	Ms Mel Bowman-Finn	245	Notification and objections	Limiting community notification and formal objection rights to the Land Court to "site specific" environmental authorities will, in conjunction with the above clauses, remove all existing public rights to lodge formal objections to the Land Court in up to 90% of mining projects in Queensland. This is unacceptable and fails to recognise the positive impact of community objection rights. Suggestions by State government Ministers that objectors lodge frivolous or vexatious cases is entirely untrue, rather the opposite is true: there are no examples of such cases and objectors are very responsible. In the Alpha coal case (2014) the land holders and conservation group exposed that the mining company had a lack of hard data on groundwater impacts. Public spirited objectors went to Court and saved Ellison Reef (1967) from limestone mining and helped show the importance of protecting Fraser Island, now World Heritage Listed (1971).	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for the activity), and as such, a standard or variation application will apply. These standard and variation applications will not be subject to notification or objection rights on a case-by-case basis. Please note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large

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					scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. For example, the Alpha coal case (which is specifically mentioned in the submission) was a site-specific application for an environmental authority which had also had an Environmental Impact Statement prepared and published for comment under the *State Development and Public Works Organisation Act 1971*. A site-specific application would also be required for any mining application in an area like Ellison Reef or Fraser Island, due to their location and the operation of eligibility criteria which requires a site-based assessment for activities within or near 'category A environmentally sensitive areas'.
117	Ms Lesley Edwards	419 and 420	Notification and objections	I am writing to strenuously object to the laws you are introducing to take way my right to object to new mining leases.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
118	Ms Anne Martin	429, 420, 418, 245, 423 and 424	Notification and objections	Clauses 429, 420, 418, 245, 423 and 424 are abhorrent and are indicative of the callous disregard the Minister appears to hold the community in.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement.

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					The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
130	Ms Jenny Chester	239-266	Notification and objections	Ms Jenny Chester submits: The Bill will remove public notification and community rights to object to the Queensland Land Court for, in effect, 90% of proposed mines. By contrast, the current law provides for public notification of all and any person or group is entitled to object to the proposed mine and have the objection heard in open court. Only 'affected persons' will be able to object to the decision to grant a mining lease tenure. This does not even include neighbours, unless their land is needed for access. Only 'high risk' mines will be publicly notified for objection on environmental grounds which is predicted to be only 10% of mines in Queensland. This means that for 90% of mines existing public objection rights will be lost.	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for consideration as a standard or variation application), and as such, a standard or variation application will apply. These standard and variation applications will not be subject to notification or objection rights. Please note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State*

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					Development and Public Works Organisation Act 1971. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified.
		429	Restricted land	Landholder consent provisions currently in place for 'restricted land' (basically land nearby to homes and businesses) will be totally removed where the proposed mine is open cut.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding any such mining lease application.
134	Mr Allan Sharpe		Notification and objections	I live just north of the township of Aldershot (pop 1042) where an open cut coal mine is proposed within 1.4 kms from my residence and I am very concerned regarding dust and noise pollution. The bill proposed would remove the right for me to challenge this project in the land court even though my property is not actually on the proposed mine site. The mine proponents now known as Colton Coal have tried twice before to gain approvals from DERM and now have submitted a third EMP for consideration to Dept. of Environment and Heritage. Despite the three attempts, surely you can see that I have	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community

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				doubts and I should deserve the right to challenge in court. Taking away my right to have a court decide if this mine should proceed is very disappointing and un - Australian and should not proceed!	members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. Coal projects do not meet the eligibility criteria and therefore must be made as a site-specific application for an environmental authority. Therefore, there is no curtailment of community rights for the environmental authority for these projects. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
141	The National Council of Women of Queensland Inc. (NCWQ)			NCWQ is concerned about: o Lack of accountability and loss of safeguards through 1. Loss of public notification for a predicted 90% of mines;	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental

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				2. Loss of the right to object to mining leases by the community; 3. Possible lack of scrutiny of environmental issues by independent expert scientists; o Acceleration of approvals before: 1. Adequate data collection and hydrogeological research to make confident predictions with groundwater models; 2. Impact of Coal Seam Gas and coal extraction on groundwater resources adequately understood; 3. Social and health issues in rural communities adequately addressed.	impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests. The 90% of applications that adjoining landholders and the community will no longer have a right to object to is the 90% of applications that they currently do not object to under either the *Mineral Resources Act 1989* or *Environmental Protection Act 1994*.
144	Mr Eric Budgen		Notification and objection	I am and have been a resident home owner in Aldershot for the past four years. I am extremely concerned with changes	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of

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				outlined in the proposed Energy Resources (Common Provisions) Bill 2014 which proposes to remove my current rights of objection as a resident living in close proximity to the proposed Colton Coal Mine.	operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. Coal projects do not meet the eligibility criteria and therefore must be made as a site-specific application for an environmental authority. Therefore, there is no curtailment of community rights for the environmental authority for these projects. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					balanced approach to notification and objections between industry, and individual landholder and community interests.
146	Ms Patricia Cook	Refer to Table 3			
147	Mr Max Scholefield	Refer to Table 3			
148	South Endeavour Trust	239-266	Notification and objections - Standard mining lease applications	The South Endeavour Trust submits the following: • The Trust is extremely concerned that the provisions in the Bill relating to Mining Lease Applications for Standard projects will seriously reduce and compromise the security of our biodiversity investments. • The proposals in the Bill relating to standard mining lease applications provide a major loss of statute law rights for no significant gain. • The Trust objects to proposals to restrict who can object to a Standard application. In particular, to remove all rights of adjoining landholders to object is a major reduction in their rights to protect their property interest. • The Trust objects to the proposal to remove the right to object on environmental grounds to standard applications. The provisions in the Bill make no provision for uncertainty, something that is critical if informed decisions are to be made. • The discussion paper on these changes did not detail what changes were proposed to matters that can be	Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for the activity), and as such, a standard or variation application will apply. These standard and variation applications will not be subject to notification or objection rights on a case-by-case basis. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. Eligibility criteria and standard conditions must be developed through the process outlined in chapter 5A of the *Environmental Protection Act 1994*. This process was introduced into the legislation in 2012 and commenced in March 2013. An example of this process is the recent development of the eligibility criteria and standard conditions for petroleum activities (including CSG exploration). The eligibility criteria and standard conditions for these activities were developed in consultation with key stakeholders. Draft eligibility criteria and standard conditions were made available for public consultation through the Department of Environment and Heritage

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				considered by the Land Court. As such there was no actual public consultation on these changes. Whilst there is an argument for streamlining of regulation for large and mega mines of State significance where there is a demonstrable state and/or national benefit. The same arguments do not hold for small miners.	Protection's website. The consultation process was held from 28 February to 22 April 2013 and a report was published which outlines the key issues raised during consultation and the resultant actions or responses from the department. This report is available online at http://www.ehp.qld.gov.au/management/non-mining/documents/eligilibity-criteria-standard-conditions-consultation-report.pdf The existing transitional eligibility criteria for mining activities are located in schedule 3A of the *Environmental Protection Regulation 2008*. These eligibility criteria and the standard conditions must be reviewed by March 2016 due to a sunset provision in the transitional arrangements for the legislation which commenced in March 2013. Therefore, the eligibility criteria and standard conditions will be developed through a public consultation process and individuals and members of the community will have a right to have a say about the conditions that govern these small, low risk mines during that process.
149	Ms Monique Filet	Refer to Table 3			
150	Mrs Margaret Hilder	Refer to Table 3			
151	Ms Audrey Naismith	Refer to Table 3			
152	Ms Eloise Telsford	Refer to Table 3			
153	Mrs Sarah de Wit	Refer to Table 3			
154	Ms Elisabeth Hindmarsh	245, 418, 420, 423, 424 and 429	Notification and objections	Ms Hindmarsh opposes these clauses.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
155	Ms Penny Allman-Payne	Refer to Table 3			

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156	Mr Peter Faulkner	Bill as a whole	The use of regulations	The Bill also proposes to legislate by regulation – i.e. leave many crucial matters to be provided for in a regulation and not in the legislation itself. The regulations have not yet been made and such a process is in my view flawed and highly undesirable. It leaves many extremely important issues to be decided by a process far less satisfactory than through our parliament.	The approach taken in the Bill should be considered in the context of the existing resources Acts being very prescriptive. Highly prescriptive, rigid and detailed legislation is restrictive and does not allow the government to be responsive to the dynamic environment within which the resource industry operates. It is important to get this balance right to ensure crucial investment is not lost to other jurisdictions with simplified frameworks. Any new or changes to regulations are still subject to the Regulatory Impact Statement (RIS) System that can require detailed cost-benefit analysis of proposed changes and detailed consultation. All regulations must be tabled in Parliament where a disallowance motion can be moved. The Blueprint (available on DNRM website, p.22) for the strategy on how the department is to operate identifies as a key enabler of reform—the modernisation of our regulatory framework through making sure legislation is practical and easy to administer and removing prescriptive regulations to enable more flexibility for businesses, landholders and the community.
157	Confidential				
158	Mr Ralph Valler	Refer to Table 3			
159	Mr Andrew Francis Brigden	Refer to Table 3			
160	Ms Eleanor Barrett	Refer to Table 3			
161	Hillel Weintraub	Refer to Table 3			
162	Ms Claudia Stephenson	398,418 and 420	Notification and objections – Environmental impacts	All citizens must have the right to legitimately object to developments which could potentially cause harm to the environment and the people of the area. It is well known that the effects of mining extend well beyond the property on which the mine is located. At Moura Dawson mine, the 4th	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for the activity), and as such, a standard or variation

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				most polluting mine in Australia, there have been overflows of polluted water across our grazing country and into Kianga Creek. There have also been flows of toxic water from the nearby Nitrate Plant. The legacy of deadly toxic waste from Mt Morgan mine lives on 100 years later. With these facts in mind it is essential that neighbours and experts in all fields should have the right to object to a proposed mine.	application will apply. These standard and variation applications will not be subject to notification or objection rights on a case-by-case basis. Please note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified.
163	Ms Astrida Donaldson	398,418 and 420	Notification and objections	Decisions for land use have a process for industries to provide the community the chance to make a submission and to have appeal rights if they disagree with the decision. Mining tenure should NOT be exempt from this basic standard. As a community member I strongly object to the limitation of community notification and formal objection to mining projects in Queensland.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		423 and 424	Notification and objections – Land Court	Allowing decreased judicial oversight, and increasing the powers of State Government ministers, and shutting our community participation will only lead to corruption of the governing processes, which will be detrimental to our land and people.	The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary jurisdictional overlap and providing more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts under the *Mineral Resources Act 1989*. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the *Mineral Resources Act 1989* to condition. This, in turn, increases the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Land Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.
164	Mr Jonathan Hoch	Refer to Table 3			
165	Bill Dorney and Debbie Mitchell	Refer to Table 3			
166	Mr Herbert Bruggemann	Refer to Table 3			

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
167	Peter & Julia Anderson	Refer to Table 3			
168	Friends of Stradbroke Island Association	Refer to Table 3			
169	Oakey Coal Action Alliance	Refer to Table 3			
170	Mr Tom Crothers	Refer to Table 3			
171	Mrs Aileen Harrison	Refer to Table 3			
172	Ms Susan Oxley	Refer to Table 3			
173	Basin Sustainability Alliance	398 and 420	Notification and objections – Affected persons	Neighbours to a mining lease are often the ones most affected and may find that they are seriously affected by the mine with no avenue for compensation. The definition of 'affected person' needs to be widened so that all genuinely affected individuals and community groups have the right to object. The occupier as well as the owner should also be included in this definition.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		68	Restricted land – Infrastructure types	Even a mid-size piggery operation may not be a restricted area if it doesn't come under the guidelines prescribed, *Environmental Protection Regulation 2008,* schedule 2, part 1.	The Environmental Protection Regulation provides thresholds for these types of activities that are regulated under the environmental protection framework. These types of activities are specifically being included in the restricted land framework to recognise the significance of these activities and that they should have a higher level of protection. This proposed inclusion seeks to strike a balance between these intensive animal husbandry and aquaculture activities and resource activities. Aquaculture and animal husbandry activities that fall short of the 'intensive' threshold will still be afforded the protections under the conduct and compensation agreement (CCA) framework that currently applies.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
		67	Restricted land – Prescribed distance	A fundamental but extremely important issue in regard to restricted land has been left to later implementation as a Regulation. The definition of 'prescribed distance' at clause 67 means a 'distance prescribed by regulation'. Clause 67 is definitely not an issue to be left in limbo. BSA recommend that CSG wells should not be any lesser than a distance of 600 metres or the mandatory distance prescribed by the EPA for light, noise and dust impacts from a landholder's private dwelling. Further, this buffer distance should apply equally to stock yards, feedlots, piggeries and poultry facilities and similar infrastructure regardless of their size. BSA recommends that harsher penalties for non-compliance to the above and that such penalties should be mandatory.	This and related clauses propose a framework that at its basic level requires resource authority holders to obtain the consent of landholders and occupiers before activities can be undertaken within a certain distance from homes, schools, buildings for business purposes etc. The clause proposes that the actual distances be prescribed by regulation as this can vary depending on the activity type or the type of building or area. The department is of the view that this detail is appropriate to be prescribed by regulation and this aligns with the direction in this Bill to achieve a better balance and effective use of regulations in comparison with the rigid, prescriptiveness of the existing resources Acts. While the distances for restricted land are proposed to be prescribed by regulation under clause 67, a distance of 200 metres has been consulted on in a Regulatory Impact Statement to apply for any exploration and production authorities (e.g. exploration permits, authorities to prospect, mining leases, petroleum leases etc.) and petroleum facility licences, and 50 metres for all other resource authorities including data acquisition authorities, water monitoring authorities and survey licences.
		217	Restricted land – When it applies	BSA recommends this clause needs to be amended to include all resource authorities granted under the P&G Act regardless of the date they were granted.	Many agreements have already been made or negotiations commenced based on the existing legislative framework. The application of the proposed restricted land framework to existing granted, or applications for, resource authorities would have a significant impact on all stakeholders. Particularly if a resource Activity has already begun and it has to stop until consent can be gained, or the activity is already subject to a restricted land framework and differences need to be resolved.
		567	Legacy boreholes	Under chapter 3 of the *Water Act 2000* (Water Act), landholders whose bores are impacted by CSG activities have an entitlement to have the relevant CSG tenement holder provide a make good agreement providing for make good measures in respect of the impairment of the bore(s). BSA are concerned that section 294B may operate in such a way that landholders will not be able to stop an 'authorised person' from accessing their land and plugging and abandoning a bore, such that they effectively lose their existing right to compensation under the current Water Act make good provisions.	The introduction of section 294B is to authorise action to remediate a legacy borehole that presents a safety concern. It is not related to separate discussions between a landholder and a tenure holder about make good agreements related to coal seam gas impacts on groundwater. The department considers that these amendments do not alter or impair the ability of either party in the discussion of make good agreements. Similarly, the amendments do not alter or impair another landholder initiative to convert old petroleum and gas wells to water bores. It is also noted that routine remediation of legacy boreholes by tenure holders as an authorised activity connected to their tenure is subject to existing regulatory requirements for access, notification including conduct and compensation agreements as well as relevant environmental requirements.

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		N/A	Legacy boreholes	BSA proposes that all mining activity must be required to fully restore the landscape at the conclusion of their activities. This should be a built-in cost to their operations. This should apply to all mining and because we have a legacy of abandoned mines, exploration wells etc, the Government should create a fund, contributed to by all miners (including CSG operators), that is used to repair the damage already caused.	The department notes that the matter of costs associated with remediating legacy boreholes is outside the scope of the Bill.
		Additional issues raised by the Basin Sustainability Alliance were very similar to those raised by a number of other submitters. Refer to the outline of issues and the departmental responses provided in Table 3.			
174	Neville & Carmel Stiller	398,418 and 420	Notification and objections - Right to object	Under the proposed new legislation, we, as a neighbouring property would not have a right to object to the activities detailed in the letter that occurred less than 200 metres from our place of residence. It is a fundamental community right to know what mines are proposed in Queensland. Mines have an impact on communities and any member of the community should be able to know what mines are proposed. If we will be affected, or if we are likely to be affected by the decision to approve	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				an environment authority for a mine, then shouldn't we have a right to know about the application and have a say on the application before it is approved. CSG matters should be brought in line with mining lease matters. Owners and or occupiers of neighbouring land, no matter what the distance, should have the right to object to any activity that may have any sort of impact on their life and business. Neighbouring owners and or occupiers impacted should be consulted and a conduct and compensation agreement entered into.	such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		Chapter 3	Land access - Conduct and compensation agreements	Express support for notation of conduct and compensation agreements (CCA) on title and the resource authority being liable for the costs associated with registering and removing the notation on title. Suggests notations should be removed within two weeks of an agreement ceasing, and introducing an ability to have a	The department thanks Neville and Carmel Stiller for their support for the proposed provision. Clause 90(3) currently requires a resource authority holder to remove a notation within 28 days of the agreement ending. This provides a suitable period for resource authorities to remove notations from title. Provisions regarding the review of CCAs have been migrated across from the

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				CCA reviewed every 3 to 5 years.	existing resources Acts and maintain the status quo, providing certainty to all parties upon the execution of an agreement. Clause 99(1)(b) however allows a review of compensation by the Land Court if there has been a material change in circumstances since the agreement.
		45	Land access - Opt-out agreement	Expressed concerns about the benefit of opt-out agreements to landholders and potential utilisation by resource authority holders as an avenue to avoid signing conduct and compensation agreements (CCA), and objects to inclusion within the Bill.	The department notes the concerns raised. However the opt-out agreement framework was recommended by the Land Access Implementation Committee (LAIC) Report, which resulted from a prolonged and extended period of review and consultation with peak agricultural and industry representatives. The department is committed to implementing the LAIC recommendations, including recommendation 4.2 which requires the development of a factsheet by the department to be provided to landholders prior to the execution of an opt-out agreement. This is designed to ensure landholders are aware of the implications and consequences of entering into such an agreement. All landholders can refuse to engage in signing an opt-out agreement, and ask for the commencement of negotiations for a conduct and compensation agreement if beneficial for their particular circumstances.
		68	Restricted land – Definition/application	Believes dwellings, bores, stock yards, water storages and dams should continue to be protected under framework. Suggests extending restricted land framework to petroleum and gas tenures.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. Dwellings are captured in the proposed restricted land framework as per the definition of residence in clause 68(1)(a)(i)(A) of the Bill.
		239-266	Notification and objections - Amendments to *Environment Protection Act 1994*	All changes to environment authorities should be publically advertised. If a change to an environment authority is likely to affect us, then we would like to know and be able to have a say. It should be publically advertised and citizens have a right to have a say in what occurs. We do not accept this proposal.	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for consideration as a standard or variation application), and as such, a standard or variation application will apply. These standard and variation applications will not be subject to notification or objection rights. Please note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which

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					must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified.
		Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 – division 7 part 9 – division 6 part 10 – division 7	Legacy boreholes	The major problem with this proposal is that the ability to remediate a bore or well is not strictly limited to 'legacy boreholes'. Under the clause, anyone who is authorised by the Chief Executive can remediate any bore which is emitting gas above the lower flammability limit – i.e. a water bore used by a landholder to water a property. The clause provides for no rights to compensation or notification, yet it effectively enables a person to enter my land and plug a bore that is being used simply because it is emitting gas above the lower flammability limit, which is a relatively low threshold.	It is important to note that the construction of the section does not require State action in the range of events presented in the submission, e.g. where gas emissions may be above the LFL but are not a safety concern. There is discretion for the State to determine whether or not an authorisation under section 294B is issued. This is extremely important as it allows a process that can respond to a range of circumstances and landholder perspectives, e.g. - the State can choose not to take on the liability and responsibility for remediation action where a landholder did not want a bore remediated even though it technically met the definition of safety concern provided by the three limbs of section 294B; at the same time the State can at the request of a landholder authorise a person to take immediate action to remediate a bore or well that is on fire or where gas levels present a risk to their life or property. The legislation is drafted to enable action to be taken where there are safety issues presented by legacy boreholes. There is no Government policy to plug and abandon all legacy boreholes. Identification and rehabilitation of all legacy boreholes in Queensland is not necessary, given the low level of risk of some bores to present safety concerns. The anticipated likelihood of incidents as occurred at Kogan (2012) is very low and the Government has been clear that this initiative is not part of an overarching program to deal with all legacy boreholes but rather is directed toward providing a mechanism that if there is an incident that the State can authorise action to remediate the borehole regardless of where it occurs, whether or not the type or

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					origin of the bore can be determined. The situation at Kogan was resolved quickly by a collaborative response from industry and government, and without the specific legislation proposed in the Bill. However, the incident occurred on State owned land and discussions following the incident identified constraints for using the same approach in other circumstances and scenarios. In particular, industry identified matters that would require change before committing to any ongoing involvement in remediation of legacy boreholes. The matters of concern related to access if the incident was on private land or on land that another party had tenure for, indemnity against liability and remediation costs. In the event of a fire or other safety concern requiring immediate action, the department was advised that it may not be possible to determine the type or origin or history of the bore prior to remediation action being taken. There are other scenarios that also contributed to the broad construction of section 294B including: not knowing whether the borehole was an old water bore; historically some coal exploration bores have been "given" to landholders for conversion to a water bore, some may not have been converted, some may have been converted but are now not is use but not decommissioned, and the relevant history of the bore may be unknown to the current landholder. Under the proposed construction if urgent action is needed, because of a fire or other emergency, State authorisation can be granted where these matters are not able to be determined. Therefore, it is intended that the authorisation process be limited to where the department has assessed there is a safety concern requiring action. The assessment process will be done in consultation with the landholder where there is no threat to life or property. The department acknowledges there are a variety of scenarios that would be caught by the construction of section 294B. This reinforces the need for a risk assessment process in determining whether an authorisation is granted. The Petroleum and Gas Inspectorate is equipped to make an assessment of risk.
175	Friends of the Earth Brisbane	418, 420, 423 and 424	Notification and objections -Objection process for mining and Environmental Authority applications	The proposed changes would remove the option for such valid, public interest concerns to be heard by the impartial arbitrators. Narrowing the definition of "affected people" to those who own the land within the Mining Lease area, as Clauses 418 and 420 do, is inappropriate. It disregards the wider	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				community affected by development in the present, it diminishes the rights of first people's dispossessed of their land in the past, and destroys any capacity for intergenerational equity – respect for communities of the future. Community groups and individuals outside the Mining Lease area should retain their existing rights to participate in decisions that impact on them. The public notification system for Mining Lease and Environmental Authority applications should be improved by requiring online publishing of the notices on the departmental and company websites within 24 hours of lodging the applications. The existing system is antiquated and the solution is not to remove almost all notification requirements but put in place a simple, electronic, widely accessible solution. The Land Court should be allowed to continue to arbitrate on technical, complex and specific questions. These mining projects are, by their very nature complex and technical and have very specific impacts. We believe the Land Court is more than capable of understanding and assessing expert evidence of this nature. The removal of powers from the Land Court to the Minister in Clauses 423 and 424 is not necessary and has worrying implications for corruption.	variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests. The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					vague. The review also identified that additional considerations were required by the Land Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.
176	Place You Love Alliance	Refer to Table 3			
177	Society for Growing Australian Plants	Refer to Table 3			
178	Sid & Merilyn Plant	398, 418 and 420	Notification and objections -Objection process for mining and Environmental Authority applications	This is Queensland and we are supposed to live in a free state with freedom of speech and that should give anyone the right to speak out against wrongs If people want to support others who are badly done by this is their right.	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for consideration as a standard or variation application), and as such, a standard or variation application will apply. These standard and

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					variation applications will not be subject to notification or objection rights. Please note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified.
179	Confidential				
180	Mr Col Thompson	Refer to Table 3			
181	Marian & Vince Cerqui	Chapter 3	Restricted land – Application	Companies say that they will abide by legislation, but that doesn't happen on site and the land owner is left on his own because there is no policing of the legislation. So by removing Category B Restricted Land Areas (which include principal stockyards, bores or artesian wells, dams or other artificial water storages connected to water supplies) from the proposed legislation will greatly affect not only our livelihood but work place and safety and the welfare of our cattle and livestock. The amendments proposed seek to substantially alter long held principles and rights of land holders in Queensland with virtually no benefits flowing back to us from the proposal.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.

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		239-266	Notification and objections - Amendments to the *Environmental Protection Act 1994*	The amendments to the EPA effectively mean that standard applications will not require any form of public notification and, as a consequence of that, a submission cannot be made by a member of the public on such an application, regardless of the impact that it may have. I want to be able to object to make submissions on the Environmental Authority, or object to its granting, if the proposal will affect me or the environment regardless of its size. It is a fundamental community right to know what mines are being proposed in Queensland. Mines by their very nature have a fundamental impact on communities and any member of the community should be able to know what mines are proposed. The removal of notification for applications which are not site-specific applications is a blatant denial of natural justice and degrades rights that I currently have. CSG matters should be brought in line with mining lease matters. I do not like the idea of the Minister deciding whether or not applications that propose to vary an environmental authority in a significant way are to be publically notified. In all but cases involving minor variations, applications to vary environmental authorities should be publically advertised and people have a right to have a say in what occurs.	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for consideration as a standard or variation application), and as such, a standard or variation application will apply. These standard and variation applications will not be subject to notification or objection rights. Please note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified.
		418 and 420	Notification and objections	In regard to the amendments to section 260 of the *Mineral Resources Act 1989* (QLD) (MRA) - minerals are the property of the Crown and they therefore cannot be held privately by companies. By removing public objection rights regarding the granting of tenure to extract a Crown held resource, I will be denied an opportunity to participate in decisions which will influence a "common resource". Under the Bill, a person who lives next door to a proposed open cut coal mine and is likely to suffer impacts such as dust, light and noise disturbance, will have no rights to object	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and

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				to the granting of the mining lease as they do not fall within the definition of an "affected person". Why will community groups not be able to have a say about what happens in their community? This proposal is simply unfair, unjust and denies the rights of all Queenslanders to "have a say" about what happens to their lifestyle, community and the "common resource". I do not like the idea that many issues that the Land Court now considers in hearing an objection to a mining lease and environmental authority will no longer be considered by the Land Court – an independent body but rather the Minister. If I chose I want to be able to have say and have that say heard by an independent person i.e. the Land Court.	therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		217	Restricted land – Point when it applies	The proposal for restricted land areas to only apply if they are used at the time the resource authority was originally granted is concerning as it effectively places the rights of citizens behind those of the interests of persons extracting the "common resource". The addition of clause 217 effectively means that an overwhelming majority of landholders who are currently affected by coal seam gas activity will not have the "benefit"	The grant of a resource authority was set as the point in time when restricted land applies to achieve some compromise between the existing frameworks this policy is intended to rationalise and to balance the interests of landholders with the proposed resource activity. Restricted land is a new scheme for the petroleum and gas sector; providing additional rights for landholders and occupiers to give consent for activities within a given distance. Regardless of whether restricted land applies, the conduct and compensation agreement (CCA) framework has, and will continue to apply for

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				of the restricted land framework as a majority of the tenure for the current coal seam gas projects has already been granted or applied for. Why not extend the current MRA restricted land regime to petroleum and gas matters? That would harmonize the different regimes and not dilute landholder rights. The proposal to amend the restricted land regime so far as it relates to mining leases hands far too much power to the Minister who will be able to decide whether or not the mining lease can cover what would otherwise be restricted land. It is virtually turning the situation into one of compulsory acquisition by mining companies of private land. Landholders should be able to decide whether or not a mining lease is over their restricted land particularly when our rights to object to the granting of that mining lease have, in most circumstances, been removed. By not requiring the resource authority holder to obtain a landholder's consent to enter the restricted land under a mining lease, they will most likely be forced to agree and simply have the issue fall to compensation.	advanced activities. Under the proposed framework, there are differences from how restricted land currently applies under the *Mineral Resources Act 1989*. For mineral and coal exploration permit holders restricted land will apply from the time of grant, rather than at any time. There is also a change for mining claims and leases, and mineral development licences, where restricted land will apply from the time of grant, rather than when the application is lodged.
		Bill as a whole	Legislation by Regulation	Many of the provisions contained in the Bill propose to move numerous aspects of the existing resource acts into regulations. Given this proposal, I ask the following of the Committee: 1. How are we to know what rights I will lose or what rights will be amended if the regulations are not made publicly available until after they are passed? 2. How can I be asked to make valuable and considered submissions when numerous crucial definitions and details, which have the potential to interfere with our rights, have been left to be prescribed by regulations?	The approach taken in the Bill should be considered in the context of the existing resources Acts being very prescriptive. Highly prescriptive, rigid and detailed legislation is restrictive and does not allow the government to be responsive to the dynamic environment within which the resource industry operates. It is important to get this balance right to ensure crucial investment is not lost to other jurisdictions with simplified frameworks. Any new or changes to regulations are still subject to the Regulatory Impact Statement (RIS) System that can require detailed cost-benefit analysis of proposed changes and detailed consultation. All regulations must be tabled in Parliament where a disallowance motion can be moved. The Blueprint (available on DNRM website, p.22) for the strategy on how the department is to operate identifies as a key enabler of reform—the modernisation of our regulatory framework through making sure legislation is practical and easy to administer and removing prescriptive regulations to enable more flexibility for

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				3. How will I have a say in the content of the Regulations?	businesses, landholders and the community.
		Chapter 3	Land access - Opt-out agreements	An "opt-out" agreement offers very little benefit to a landholder and provides little protection once signed. A landholder already has the option to enter into a Deferral Agreement and I therefore question the inclusion of a further framework which provides yet another avenue for a resource authority holder to avoid entering into a Conduct and Compensation Agreement (CCA). The first step in the negotiation between the landholder and the resource authority holder will be an attempt to get the landholder to "elect" to enter into an opt-out agreement, without knowingly understanding the consequences of entering into such an agreement. This approach tips the scales further in the direction of a resource authority holder in what is already an uneven negotiation. Further, a CCA is effectively an insurance policy – i.e. when things go wrong, I am forced to rely on the terms of the CCA, without it I have very little rights of recourse.	The department notes the concerns raised by Marian and Vince Cerqui. However the opt-out agreement framework was recommended by the LAIC Report, which resulted from a prolonged and extended period of review and consultation with peak agricultural and industry representatives. The department is committed to implementing the LAIC recommendations, including recommendation 4.2 which requires the development of a factsheet by the department to be provided to landholders prior to the execution of an opt-out agreement. This is designed to ensure landholders are aware of the implications and consequences of entering into such an agreement.
		Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 – division 7 part 9 – division 6 part 10 – division 7	Legacy boreholes	The ability to remediate a bore or well is not strictly limited to "legacy boreholes". Anyone who is authorised by the Chief Executive can remediate any bore which is emitting gas above the lower flammability limit – i.e. a water bore used by a landholder to water a property. The clause provides for no rights to compensation or notification, yet it effectively enables a person to enter my land and plug a bore that is being used simply because it is emitting gas above the lower flammability limit – which is a comparatively low threshold. There are numerous bores within Queensland that emit varying levels of gas and are relied upon by landholders every day of the week.	It is important to note that the construction of the section does not require State action in the range of events presented in the submission, eg where gas emissions may be above the LFL but are not a safety concern. There is discretion for the State to determine whether or not an authorisation under section 294B is issued. This is extremely important as it allows a process that can respond to a range of circumstances and landholder perspectives, eg - the State can choose not to take on the liability and responsibility for remediation action where a landholder did not want a bore remediated even though it technically met the definition of safety concern provided by the three limbs of section 294B; at the same time the State can at the request of a landholder authorise a person to take immediate action to remediate a bore or well that is on fire or where gas levels present a risk to their life or property. The legislation is drafted to enable action to be taken where there are safety issues presented by legacy boreholes. There is no Government policy to plug and abandon all legacy boreholes. The anticipated likelihood of incidents as occurred at Kogan (2012) is very low and the Government has been clear that this initiative is not part of an overarching

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					program to deal with all legacy boreholes but rather is directed toward providing a mechanism that if there is an incident that the State can authorise action to remediate the borehole regardless of where it occurs, whether or not the type or origin of the bore can be determined. The situation at Kogan was resolved quickly by a collaborative response from industry and government, and without the specific legislation proposed in the Bill. However, the incident occurred on State owned land and discussions following the incident identified constraints for using the same approach in other circumstances and scenarios. In particular, industry identified matters that would require change before committing to any ongoing involvement in remediation of legacy boreholes. The matters of concern related to access if the incident was on private land or on land that another party had tenure for, indemnity against liability and remediation costs. In the event of a fire or other safety concern requiring immediate action, the department was advised that it may not be possible to determine the type or origin or history of the bore prior to remediation action being taken. There are other scenarios that also contributed to the broad construction of section 294B including: not knowing whether the borehole was an old water bore; historically some coal exploration bores have been "given" to landholders for conversion to a water bore, some may not have been converted, some may have been converted but are now not is use but not decommissioned, and the relevant history of the bore may be unknown to the current landholder. Under the proposed construction if urgent action is needed, because of a fire or other emergency, State authorisation can be granted where these matters are not able to be determined. Therefore, it is intended that the authorisation process be limited to where the department has assessed there is a safety concern requiring action. The assessment process will be done in consultation with the landholder where there is no threat to life or property. The department acknowledges there are a variety of scenarios that would be caught by the construction of section 294B. This reinforces the need for a risk assessment process in determining whether an authorisation is granted. The Petroleum and Gas Inspectorate is equipped to make an assessment of risk.
182	Ms Bronwyn Marsh	Refer to Table 3			

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183	Mr Ian McDougall	Refer to Table 3			
184	Ms Marial Saren Starbridge	Refer to Table 3			
185	Ms Edith McPheee	Refer to Table 3			
186	Mary River Catchment Coordinating Committee	245, 418 and 420	Notification and objections – Affected persons	The narrow definition of 'affected persons' which, for example, excludes neighbours of the property being mined, and other members of the community (particularly those downstream of operations) removes existing public rights to comment and legal recourse regarding proposed mining operations. The procedure for determining which mining applications will allow input from the wider community and those for which only the narrowly defined group of 'affected persons' will have rights to information, comment and legal procedures in the Land Court have not yet been explained. Being asked to accept this proposed removal of existing legal rights without knowing the procedure that will determine which applications will be subject to public scrutiny and access to the Land Court is asking Queensland citizens to accept 'a pig in a poke' with respect to these proposed changes. Public comment allows for a much broader and more accurate assessment of likely consequences of a proposed activity, and can help avoid very expensive damaging consequences which may show up over time, particularly downstream of a mining development.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply.

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					The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		429	Restricted land	Clause 429 introduces ministerial discretion which would allow a mining authority to be granted over such restricted lands, and then remove all requirements for obtaining the land owner's consent for mining operations within those restricted lands. This effectively reintroduces a large degree of uncertainty about the rights of the owners of restricted land, and opens the door wide open for potentially corrupt and unconscionable behaviour. "Restricted lands" should be clearly and unambiguously defined in law, and all restricted lands be clearly and unambiguously treated the same, clearly codified and predictable manner.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (Clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding any such mining lease application.
		43, 44 and 45	Land access - Allowing "opt out" and deferment of conduct and compensation agreements	It is hard to see that there is any great overall efficiency to be gained in introducing an added level of complexity and potential difficulties into the legislation by introducing the requirement for the creation and registration of additional documented 'opt out' and deferment agreements. Such clauses do risk introducing an increased level of bullying and unconscionable behaviour into the generally	The department notes the concerns raised. However the opt-out agreement framework was recommended by the Land Access Implementation Committee (LAIC) Report, which resulted from a prolonged and extended period of review and consultation with peak agricultural and industry representatives. The department is committed to implementing the LAIC recommendations, including recommendation 4.2 which requires the development of a factsheet by the department to be provided to landholders prior to the execution of an opt-out agreement. This is

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				unbalanced negotiations between mining interests and individual landowners, by giving miners new methods for gaining access to a property before a proper, legally informed conduct and compensation agreement can be thoughtfully negotiated by the landholder. It will also introduce a unnecessarily complicated situation under which there are three ways in which a property can be accessed for a mining activity ('opt out', deferred or negotiated conduct and compensation agreement), each of which will need to be documented and recorded against the title of the property, instead of one (via a negotiated conduct and compensation agreement).	designed to ensure landholders are aware of the implications and consequences of entering into such an agreement. All landholders can refuse to engage in signing an opt-out agreement, and ask for the commencement of negotiations for a conduct and compensation agreement if beneficial for their particular circumstances. The opt-out framework has also been designed to avoid adding unnecessary complexity by minimising legislative amendments for opt-out agreements.
187	Goomboorian Community Action Group	423 and 424	Notification and objections – Matters to object	"It is not reasonable for individual miners to carry the burden of philosophical debate on whether mining is an appropriate land use through their ML application." (p34) Why not? Why is it more important to destroy some of the most valuable farmland in the world, as in the black soils at Cecil Plains and the rich red volcanic soils in coastal areas, to protect mining interests than to protect the very land that feeds us? Surely objections based on these situations in these areas, against individual mines would have to be valid. Proposed mines in important city water catchment areas would also come into this category.	Areas of strategically important agricultural and cropping lands are able to be protected under the recently commenced *Regional Planning Interests Act 2014* by declaring cropping as a regional planning interest within the defined area. Under this legislation if a decision is made that the strategic cropping land should be protected from mining activity, mining is precluded.
		420	Notification and objections - Limiting the right to object to a ML application to landholders and local government	"Limiting the right to object to a ML application to landholders and local government" (p vii) removes the right of those affected by environmental issues, most importantly depletion and contamination of ground water and contamination of above ground water, especially by heavy metals in rain water, to object. "Broad public notification of an application {low risk mine} under the MRA will also no longer be required. (p viii) Again this is an attempt to keep the community uninformed about what is going on in the neighbourhood. Just because an application has been made should not mean that it will automatically be approved and therefore the community	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				cannot know it has been granted unless they are notified. "For all ML applications the landholders and local government will be notified directly to ensure issues relevant to the tenure application (including compensation, land access and infrastructure) can be considered during the application process and an objection lodged if required."(p viii) We believe most objections raised would be of environmental concerns affecting the living conditions of the residents in the vicinity so why is environment not included in this list? Is this an indication of the little importance the government places on the environment which sustains us all?	members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		239-266	Notification and objections -Limiting the right to object to individual mining EA applications under the EP Act to site-specific applications	"Limiting the right to object to individual mining EA applications under the EP Act to site-specific applications" (p vii) does not take into account that each area is different and may have different water resources or wind directions and strengths etc. which will mean that the proposed mine would have individual reasons for objections. The people who have lived on these lands for many years often have much better long term knowledge of conditions and should be able to make their objections known. "As objections could no longer be made against the EA"	The change to the *Environmental Protection Act 1994* reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. A 'low risk' mine is determined by the ability of the operator to meet eligibility criteria which are currently contained in schedule 3A of the *Environmental Protection Regulation 2008*. These criteria provide a clear definition of when a mine can make a standard or variation application. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				(p28) there would be a significant savings in Land Court costs. This assumes that the Land Court has no valid use but I am sure it does and objections heard through it should not be watered down.	authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. Standing for notifications and appeals under the *Environmental Protection Act 1994* has not been changed.
		429	Restricted land – Mining lease applications	"Reducing the assessment times for the granting of MLs by" "no longer excluding restricted land from the area covered by the grant of the ML."(p vii) This is unacceptable presuming that this status of restricted activity on the land was placed for a reason and the body responsible for granting the mining approval should not be able to override it. We liken this on a smaller scale to changing the protected status of The Great Barrier Reef.	The department notes that no assessment times for relevant considerations under the *Mineral Resources Act 1989* have been reduced. The effect of the current process is to exclude mining activity from areas of restricted land by excluding the land from the mining lease entirely. In those situations that the miner subsequently enters into an agreement with a landholder that the area can be mined a separate application must be made for each area of restricted land. At the time the application is made the land would be assessed for its appropriateness to be mined. The proposed amendments would include the area of restricted land in the mining lease area but all mining activity authorized by the mining lease would still be excluded from the land without the owner's consent. In this situation the suitability of the land to be mined is assessed under exactly the same criteria as is currently the case except that it is assessed when the original application is made. The saving in time results from having the assessment of the suitability of the land for mining done up front rather than having to make a separate application at a later date. There will be no reduction in the assessment of the land under the proposed process.

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		423 and 424	Notification and objections -Objection rights under the MRA	"Objection rights under the MRA will clarify which issues can be objected to under the respective jurisdictions" (p ix). Any country person recognises that each property is different so why is there to be a prescribed list of things which can be objected to? We do not believe it is possible to cover every scenario in such a list.	The matters that a landholder can object to are broad and include: the extent, type, purpose, intensity, timing and location of operations, the current and prospective uses of the land; and whether the proposed operation conforms with sound land use management. These matters would be considered with regard to the existing use of the land and as such are relevant to each situation in which a mine is proposed.
188	Mr David Arthur	Refer to Table 3			
189	Ms Jude Garlick	420	Notification and objections – Affected persons in the Galilee Basin	The removal of public notifications and rights to object to the Land Court of Queensland concerning most proposals for mine development (all those apart from an estimated 10 per cent of 'high risk' projects) amounts to a serious curtailment of democracy I am especially concerned about the restriction that permits 'affected persons' only to object to the decision to grant a mining lease tenure. I would be grateful if you could explain to me how it could be considered reasonable or legitimate that landholders in the Galilee Basin, for example, who may not be adjoining the property on which mining is to occur nor be required to provide access for development, yet share a common groundwater supply, which will be affected by drawdown from the mine, are not classed as 'affected persons' and given the right to object to potential risk to their livelihood.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply.

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					The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
190	Ms Bernice Thompson	Refer to Table 3			
191	Landholder Services Pty Ltd	68	Restricted land	This Bill is a further example of a manipulative administration opting to make something as fundamental as the distance of restriction or buffer zone a matter for regulations. It is a clear case where there is no good reason not to specify the distance in the Act and by hiding the decision from public scrutiny the Government invites doubts about its trustworthiness.	This and related clauses propose a framework that at its basic level requires resource authority holders to obtain the consent of landholders and occupiers before activities can be undertaken within a certain distance from homes, schools, buildings for business purposes etc. The clause proposes that the actual distances be prescribed by regulation as this can vary depending on the activity type or the type of building or area. The department is of the view that this detail is appropriate to be prescribed by regulation and this aligns with the direction in this Bill to achieve a better balance and effective use of regulations in comparison with the rigid, prescriptiveness of the existing resources Acts. While the distances for restricted land are proposed to be prescribed by regulation under clause 67, a distance of 200 metres has been consulted on in a Regulatory Impact Statement to apply for any exploration and production authorities (e.g. exploration permits, authorities to prospect, mining leases, petroleum leases etc.) and petroleum facility licences, and 50 metres for all other resource authorities including data acquisition authorities, water monitoring authorities and survey licences.
		68	Restricted land - Definition/application	The claim that stock yards and water facilities are better managed under the conduct and compensation framework is wrong because conduct and compensation agreements are not required for preliminary activities, so an explorer is free to	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement

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				disturb stock with impunity.	(CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.
		68	Restricted land – Point when it applies	The proposal as it stands penalises owners who develop and improve their properties as for exploration permits, nothing built in the future will have restricted land protection.	The grant of a resource authority was set as the point in time when restricted land applies to achieve some compromise between the existing frameworks this policy is intended to rationalise and to balance the interests of landholders with the proposed resource activity. Regardless of whether restricted land applies, the conduct and compensation agreement (CCA) framework has, and will continue to apply for advanced activities.
		252	Notification and objections – Issue of Mining Lease Notice	To force the department to do its job, the proposed new section 252 should include a time period commencing on the day of lodgment within which the notice must be issued, failing which the application lapses.	The application lodged under section 245 is not formally accepted until all of the requirements of the Act have been met. Under the proposed amendments a notice under section 252 will be issued once the Acts pre-requisites are met. Under the current process two notices are issued, one when the application is lodged and a second when the application is accepted as complying with the Act.
		260	Notification and objections – Affected person	A mining proposal is typically far more threatening to adjoining or nearby landholders than to those whose land is directly affected because they stand to either be bought out or compensated.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned

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					about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		260	Notification and objections - Grounds of Objection	Nowhere do we find a better example of the bias and lack of understanding behind this 'reform' than section 260(4) where the scope for an affected landowner's objection is restricted to just four of the issues upon which the Court must report to the Minister. Those four proposed grounds are quite OK as topics for the Court's report to the Minister, but have little merit as grounds of objection. Real issues which are provable, such as the lease applicant's past performance, or whether the shape and size and area of the proposed lease are justified, or whether the land is mineralised, will no longer be permitted as grounds of objection. In my view these regimented but inconsequential grounds, which are near impossible to support with evidence, would deter a properly informed landholder – even one directly affected – from lodging an objection to a mining	The proposed provisions in section 269(4) reflect modern drafting style and cover the substantive matters on which a landowner may object to the Land Court and include: the extent, type, purpose, intensity, timing and location of operations, the current and prospective uses of the land; and whether the proposed operation conforms with sound land use management. How the Land Court interprets these provisions in terms of the objections it will entertain has yet to be determined.

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				lease application. The owners of the land in future won't be able to object on the grounds of lack of proof of mineralisation any more.	
		239-266	Notification and objections – standard applications and site-specific applications	The Government proposes to restrict notification of environmental authority applications, and the right to object, to the high-impact site-specific applications – i.e. every other application will be classed as standard and will proceed on standard conditions. Its justification is that the standard conditions are set after public consultation – completely overlooking the fact that Government officers will decide a project's eligibility for the standard treatment. It is an incredibly blinkered view that there need be no provision for objections because an application is classed as standard. People should be able to challenge the validity of the department's classification, and to submit that additional conditions are required, and if relevant to submit evidence that the applicant's past performance as holder of an authority was unsatisfactory.	Eligibility criteria and standard conditions must be developed through the process outlined in chapter 5A of the *Environmental Protection Act 1994*. This process was introduced into the legislation in 2012 and commenced in March 2013. An example of this process is the recent development of the eligibility criteria and standard conditions for petroleum activities (including CSG exploration). The eligibility criteria and standard conditions for these activities were developed in consultation with key stakeholders. Draft eligibility criteria and standard conditions were made available for public consultation through the Department of Environment and Heritage Protection's website. The consultation process was held from 28 February to 22 April 2013 and a report was published which outlines the key issues raised during consultation and the resultant actions or responses from the department. This report is available online at http://www.ehp.qld.gov.au/management/non-mining/documents/eligilibity-criteria-standard-conditions-consultation-report.pdf The existing transitional eligibility criteria for mining activities are located in schedule 3A of the *Environmental Protection Regulation 2008*. These eligibility criteria and the standard conditions must be reviewed by March 2016 due to a sunset provision in the transitional arrangements for the legislation which commenced in March 2013. Therefore, the eligibility criteria and standard conditions will be developed through a public consultation process and individuals and members of the community will have a right to have a say about the conditions that govern these small, low risk mines during that process.
		Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 – division 7 part 9 –	Legacy Boreholes	The Government had acted to recognise and make some provision for dealing with open boreholes which emit gas. That may be a useful start if I am correct in thinking that the massive dewatering that is occurring to liberate CSG will not only cause significantly greater incidence of gas escaping from disused open holes, but will affect water bores.	The amendments support action under a State authorisation where water bores are affected by gas emissions.

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		division 6 part 10 – division 7			
		Bill as whole	The use of regulations	Some fundamental elements of the Bill have been made matters for the regulation without any good reason.	The approach taken in the Bill should be considered in the context of the existing resources Acts being very prescriptive. Highly prescriptive, rigid and detailed legislation is restrictive and does not allow the government to be responsive to the dynamic environment within which the resource industry operates. It is important to get this balance right to ensure crucial investment is not lost to other jurisdictions with simplified frameworks. Any new or changes to regulations are still subject to the Regulatory Impact Statement (RIS) System that can require detailed cost-benefit analysis of proposed changes and detailed consultation. All regulations must be tabled in Parliament where a disallowance motion can be moved. The Blueprint (available on DNRM website, p.22) for the strategy on how the department is to operate identifies as a key enabler of reform—the modernisation of our regulatory framework through making sure legislation is practical and easy to administer and removing prescriptive regulations to enable more flexibility for businesses, landholders and the community.
192	North Queensland Land Council	Bill as a whole	Use of Regulations	Concerned about use of regulations to prescribe detailed technical and procedural matters.	The approach taken in the Bill should be considered in the context of the existing resources Acts being very prescriptive. Highly prescriptive, rigid and detailed legislation is restrictive and does not allow the government to be responsive to the dynamic environment within which the resource industry operates. It is important to get this balance right to ensure crucial investment is not lost to other jurisdictions with simplified frameworks. Any new or changes to regulations are still subject to the Regulatory Impact Statement (RIS) System that can require detailed cost-benefit analysis of proposed changes and detailed consultation. All regulations must be tabled in Parliament where a disallowance motion can be moved. The Blueprint (available on DNRM website, p.22) for the strategy on how the department is to operate identifies as a key enabler of reform—the modernisation of our regulatory framework through making sure legislation is practical and easy to administer and removing prescriptive regulations to enable more flexibility for businesses, landholders and the community.

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		12 and Schedule 1	Definition of owner	NQLC submits that express provisions need to be made in the Bill to include native title holders as "owners of land" in either schedule 1 of the Bill or in s 12.	The definition of owners of land provided in schedule 1 of the Bill maintains the status quo with respect to native title holders. The Commonwealth *Native Title Act 1993* provides for native title interests requiring that they be notified when an application is made over relevant land. This requirement will not be affected by the consolidation of the resources legislation into a single Act. Additionally the Queensland *Aboriginal Cultural Heritage Act 2003* provides for the protection of aboriginal heritage and cultural practices.
		94	Land access - Land Court may decide if negotiation process unsuccessful	The NQLC generally supports that the Land Court should have wide powers. Because private land is provided in s13(1)(b) of the Bill to include an interest in land less than fee simple held from the State under another Act, there may be a small number of cases where, by the operation of s 47 of the *Native Title Act 1993*, native title parties as pastoral lessees and/or board members of registered native title prescribed bodies corporate and/or company shareholders may be involved in negotiations for access to private land. The NTA provides a process for when a lack of good faith is alleged in relation to negotiations concerning a future act. It is questioned whether the expansion of the Land Court's jurisdiction in this area is intended to replace the NTA process when native title parties are involved in negotiation for access to private land when that access would constitute a future act or whether the Land Court is to be used only when there is no native title party involved in the negotiations.	There is no intention for the proposed expansion of the Land Court's jurisdiction to replace the NTA process.
		Chapter 3	Land access - Requiring the Resource authority holder to note the existence of an executed conduct and compensation agreement on the certificate of title at	This amendment is supported by the NQLC because noting the certificate of title will make it far clearer for any person dealing subsequently in the relevant land and will ensure that the conduct and compensation agreements "run" with the land and bind successors	The department thanks the NQLC for their support for the proposed provision.

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			their own cost		
		45	Land access – Opt out	While opting out is voluntary and at the request of the owner of land, it does need to be kept in mind that there is likely to be inequality of bargaining power between the owner of land and the resource industry party. Avenues at common law, such as breach of contract, misrepresentation and fraud are expensive and are likely to involve legal representation. This may be beyond the financial reach of native title holders if, by the operation of s 47 of the *Native Title Act 1993*, they are involved in negotiation of formal conduct and compensation agreements in relation to private land should they choose to opt out.	The department notes the concerns raised. However the opt-out agreement framework was recommended by the Land Access Implementation Committee (LAIC) Report, which resulted from a prolonged and extended period of review and consultation with peak agricultural and industry representatives. The department is committed to implementing the LAIC recommendations, including recommendation 4.2 which requires the development of a factsheet by the department to be provided to landholders prior to the execution of an opt-out agreement. This is designed to ensure landholders are aware of the implications and consequences of entering into such an agreement. All landholders can refuse to engage in signing an opt-out agreement, and ask for the commencement of negotiations for a conduct and compensation agreement if beneficial for their particular circumstances. Landholders concerned about the process for resolving a dispute associated with an opt-out agreement will be able to refuse to sign and request the negotiation of a conduct and compensation agreement.
		420	Notification and objections – Affected persons	The original proposal to restrict the notification of mining lease applications is noted to have been modified so that now occupiers of land, infrastructure providers and local governments will receive notification. It is uncertain if this is intended to circumvent the notification provisions of the *Native Title Act 1993* in circumstances where native title holders and registered native title claimants should receive notice but, if so, that should not occur because the processes of Commonwealth legislation must be followed.	The Commonwealth *Native Title Act 1993* provides for the interests of native title claimants, requiring that they be notified when an application is made over relevant land. This requirement will not be affected by the Bill. The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority.

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					The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		239-266	Notification and objections – Site-specific	Pursuant to the Bill, 90 per cent of mining lease applications will not now be publically notified. Only site specific mining applications will receive full public notification. If this is intended to circumvent the notifications of the *Native Title Act 1993* so that only 10 per cent of mining lease applications receive public notification, native title holder and potential native title claimants may not be aware of activities that could potentially impact on their native title rights and interests so they may not be able to take appropriate action. The NQLC requests that it be kept fully informed of the review into what activities are considered to be low impact which is said to be taking place in the next 12 months. NQLC is of the view that native title representation would be	The Commonwealth *Native Title Act 1993* provides for the interests of native title claimants, requiring that they be notified when an application is made over relevant land. This requirement will not be affected by the Bill. Eligibility criteria and standard conditions must be developed through the process outlined in chapter 5A of the *Environmental Protection Act 1994*. This process was introduced into the legislation in 2012 and commenced in March 2013. An example of this process is the recent development of the eligibility criteria and standard conditions for petroleum activities (including CSG exploration). The eligibility criteria and standard conditions for these activities were developed in consultation with key stakeholders. Draft eligibility criteria and standard conditions were made available for public consultation through the Department of Environment and Heritage Protection's website. The consultation process was held from 28 February to 22 April 2013 and a report was published which outlines the key issues raised during

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				required on the review panel to achieve a balanced outcome as well as full consultation with native title holders during the conduct of the review.	consultation and the resultant actions or responses from the department. This report is available online at http://www.ehp.qld.gov.au/management/non-mining/documents/eligilibity-criteria-standard-conditions-consultation-report.pdf The existing transitional eligibility criteria for mining activities are located in schedule 3A of the *Environmental Protection Regulation 2008*. These eligibility criteria and the standard conditions must be reviewed by March 2016 due to a sunset provision in the transitional arrangements for the legislation which commenced in March 2013. Therefore, the eligibility criteria and standard conditions will be developed through a public consultation process and individuals and members of the community will have a right to have a say about the conditions that govern these small, low risk mines during that process.
		57	Land access - Entry on to land	Clause 57 of the Bill provides that only the public land authority will receive notice in the form of a periodic entry notice. Determinations of native title occur over public land and the Bill should be amended to ensure that where there has been a determination of native title in relation to public land, the native title holders are also provided with an entry notice when access is being sought for an authorised activity.	The Bill makes amendments to the entry notice provisions for public land, but does not affect native title interests. The Commonwealth *Native Title Act 1993* provides for native title interests requiring that they be notified when an application is made over relevant land. This requirement will not be affected by the consolidation of the resources legislation into a single Act. Additionally the Queensland *Aboriginal Cultural Heritage Act 2003* provides for the protection of aboriginal heritage and cultural practices.
		68	Restricted land - Prescribed distances for particular infrastructure	Clause 68 of the Bill provides for prescribed distances in relation to restricted land for particular infrastructure including places of worship, cemeteries and burial grounds. NQLC requests that flexibility be provided in relation to places of worship and burial grounds as the Aboriginal concept of these places and the non-Aboriginal concept differ. Currently the distances provided of 200m and 50m respectively are not considered to be sufficient.	While the restricted land framework will apply to aboriginal burial places, the primary protection framework for aboriginal heritage, including burial grounds and places of worship, is through the Queensland *Aboriginal Cultural Heritage Act 2003* and to the extent it applies, the Commonwealth *Native Title Act 1993*.
		386-390	Incidental coal seam gas - Impact on native title	NQLC totally rejects the department's view that there is no impact on native title when gas produced on a mining lease incidental to coal mining is used commercially or beneficially. This is because the right to negotiate process that occurred in respect of the grant of the mining lease would not have dealt with the additional aspect of coal seam gas because	It is the department's view that the amendments have no greater effect on native title which would require any renegotiation of agreements.

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				currently, gas extracted incidentally cannot be used beneficially or commercially. Significant future financial gains will be achieved by the mining proponents from using incidental gas. The Bill should provide that relevant s31 agreements and Indigenous Land Use Agreements should be permitted to be revisited to enable re-negotiation by native title holders and registered native title claimants in relation to incidental gas.	
193	Ms Alexandra Mercer	Refer to Table 3			
194	Ms Carol Booth	Refer to Table 3			
195	Friends of Felton	Refer to Table 3			
196	Mr Ian Wilson	Chapter 9, part 3, division 4 and chapter 9, part 7, division 9	Notification and objections	The Greentape Reduction legislation has already seriously reduced the public notification process where an EIS was undertaken apparent under the assumption that making an EIS available is sufficient public notice for major projects. This misunderstands the role of an EIS in identifying potential issues and management options for various alternatives of project design. It is then used to develop conditions and it is meaningless trying to make submissions on the options in an EIS until the proposed conditions are developed. At the other extreme, for small projects, the belief that all standard application will not have impacts misunderstands the way the criteria for standard activities are developed by government departments. Department make these general conditions on the basis of incomplete information. There is no way that all local knowledge is captured by the Departments when developing standard conditions and it is quite possible that mining will have impacts outside the area of the mining tenement, hence the desirability of continuing	An EIS for a coordinated project under the *State Development and Public Works Organisation Act 1971* (SDPWO Act) includes assessment of significant environmental effects. Last year, the Coordinator General published a generic Preparing an environmental impact statement Guideline for proponents which states that: "The objective of the EIS is to ensure that all potential environmental, social and economic impacts of the project are identified and assessed; and that adverse impacts are avoided, minimised or sufficiently mitigated. Direct, indirect and cumulative impacts must be fully examined and addressed. The project should be based on sound environmental protection and management criteria." Consequently, it is the Queensland Government's view that requiring additional notification of the environmental authority application is unnecessary duplication of process. Eligibility criteria and standard conditions must be developed through the process outlined in chapter 5A of the *Environmental Protection Act 1994*. This process was introduced into the legislation in 2012 and commenced in March 2013. An example of this process is the recent development of the eligibility criteria and standard conditions for petroleum activities (including CSG exploration). The eligibility criteria

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				the existing process of advertising all mining lease applications.	and standard conditions for these activities were developed in consultation with key stakeholders. Draft eligibility criteria and standard conditions were made available for public consultation through the Department of Environment and Heritage Protection's website. The consultation process was held from 28 February to 22 April 2013 and a report was published which outlines the key issues raised during consultation and the resultant actions or responses from the department. This report is available online at http://www.ehp.qld.gov.au/management/non-mining/documents/eligilibity-criteria-standard-conditions-consultation-report.pdf
		420	Notification and objections – Affected persons	The Bill reduces the notification of mining applications to very narrowly defined 'affected person'. This is not justified as there have been very few trivial or vexatious objections received since this process began in 1969. People only object when they have genuine concerns.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply.

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					The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		35	Dealings, caveats and associated agreements	This section gives the authority holder a unilateral right to have an associated agreement removed from the register. This would appear to apply to a compensation agreement. That is not an appropriate outcome.	Associated agreements are defined under clause 32 to be an agreement relating to a resource authority. Generally these agreements will have a commercial nature and are separate to the conduct and compensation agreements required under Chapter 3 of the Bill. The requirements proposed by the Bill, to record and remove a conduct and compensation agreement from the land title register is provided under clause 90.
		37	Land access	It should not have been difficult to include prospecting permits, mining claims and mining leases in this provision, despite the existing entry arrangements for these authorities under the *Mineral Resources Act 1989*.	The objective of the Bill is to migrate and consolidate common processes and requirements that are duplicated across each of the existing resources Acts. Prospecting permits, mining claims and mining leases have separate processes that are unique to these tenure types. For example, access and compensation for mining leases is resolved as part of the application-grant process. While the land access framework applies post-grant.
		46	Land access – Access agreements	Why aren't access agreements applied to mineral development licences under the *Mineral Resources Act 1989*.	The access agreement requirements for off-tenure access are not required for mineral development licences as this is dealt with through the application-grant process. Section 183 of the *Mineral Resources Act 1989* requires access land to be identified through the application process and included in the area of grant for a mineral development licence.
		56	Land access – Public land	It should not have been difficult to include prospecting permits, mining claims and mining leases in this provision, despite the existing entry arrangements for these authorities	The objective of the Bill is to migrate and consolidate common processes and requirements that are duplicated across each of the existing resources Acts.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				under the *Mineral Resources Act 1989*.	Prospecting permits, mining claims and mining leases have separate processes that are unique to these tenure types. For example, access and compensation for mining leases is resolved as part of the application-grant process. While the land access framework applies post-grant.
		69	Restricted land – Relevant owner or occupier	Subsections (1)(a)(iv) and (1)(b) appear to be contradictory.	Clause 69 does not have the corresponding subsection references. However, it appears the submitter is referring to clause 68 which defines restricted land. The references to identifying land through a regulation as being either restricted land or not restricted land is to allow for flexibility to adapt to circumstances as they evolve, particularly as this will apply to future applications from the petroleum and gas industry for the first time.
		71	Land access – Compensation agreement	Having a compensation agreement and complying with it may not be relevant to accessing a restricted area (like the landholder's house). This needs rewording to ensure the access is covered by the agreement.	Restricted land for a mining lease is resolved through the mining lease application-grant process under the *Mineral Resources Act 1989* (MRA) only when the Minister considers that the activities carried out on the restricted land, cannot coexist. In this case a compensation agreement is required under the MRA for that land (clause 429). Clause 71 then provides an exclusion from the Chapter 3 restricted land access framework where a compensation agreement has been entered into.
		73	Land access – Access across another resource authority area	If this provision does not apply to prospecting permits, mining claims and mining leases, what process applies when they are the first resource authority?	The objective of the Bill is to migrate and consolidate common processes and requirements that are duplicated across each of the existing resources Acts. Prospecting permits, mining claims and mining leases have separate processes under the *Mineral Resources Act 1989*, for managing these issues.
		119	Overlapping tenure	18 months notice seems unnecessarily prescriptive and rather excessive.	The department notes Mr Ian Wilson's concerns with the clause. However, the proposed legislative amendments in the Bill have been developed to meet the agreed position as provided in the White Paper.
		145	Overlapping tenure	The requirement for the Column 2 activity to have commenced could delay the Column 1 activity.	The department notes Mr Ian Wilson's concerns with the clause. The department is investigating options to clarify the matter.
		149	Overlapping tenure	Subsection (6) requires the provision of operating or development plans to the Column 1 holder which could provide a significant commercial gain, just for taking out an overlapping tenement.	The department notes Mr Ian Wilson's concerns with the clause. The department is investigating options to clarify the matter.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
		476	Mount Isa Mines	The proposed new Agreement for Mount Isa Mines appears to adequately remove superfluous provisions in the previous Agreement.	The department thanks Mr Ian Wilson for his submission.
197	Ms Margaret Doyle	Refer to Table 3			
198	Rosewood District Protection Organisation Inc.	Refer to Table 3			
199	John Gerard Erbacher	68	Restricted land – Definition/application	Submits that infrastructure such as water bores, dams, tanks, troughs, associated water pipelines and stock yards (and the land 50 metres for each) should be included in the definition of restricted lands. Suggests that a 'fair and reasonable principle' be introduced for negotiating a conduct and compensation agreement over restricted land, which could also be extended to determinations over breaches the 50 metre restricted zone buffer requirements. Mr Erbacher submits that there is a good argument to include irrigation dams and ring tanks, head ditches and tail water drains to reduce the risk of potential damage to this infrastructure from the activities of the authority holder, and the possible contamination from accidental intrusion of toxic drill waste.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.
				Restricted Land should probably not be excluded from the Mining Lease, but continue as Restricted Land retaining its "Compensatable Effect" as long as the landholder retains ownership of the property.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding any such mining lease application.
		420	Notification and objections -Affected person	Mr Erbacher submits that clause 420 needs to be amended to include "(d) an owner of land or public user amenity in close proximity to land mentioned in paragraph (a)." Mr Erbacher further submits that it appears that the intent is that only those landholders within the footprint of the mine site will have the right to object to the mining lease. Any landholder who has land over an affected aquifer or is on adjacent aquifer where leakage or depressurization may occur is an "affected person" and should be recognized as such. This legislation seems tailor made to stop objections such as those already made to the Land Court by landholders who are concerned that they may lose one of their factors of production, namely water. "Quantity" of groundwater is not classed as an environmental value in the Environmental Protection Act (EPA) so cannot be objected to under the EPA. This is a very important issue and landholders should not be disadvantaged to accommodate medium to large mining projects. Mr Erbacher further submits that a person in close proximity to a mine, who feels that their property or residence will be devalued, or their business adversely affected by the activities of a mine (e.g. road closures, increased traffic on their road, increased damage to road infrastructure) should be able to object to the mining lease and present their evidence in the Land Court.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply.

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					The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		186	Registers	Mr Erbacher submits that a register, probably included in Resource authority register section 186: Register to be kept, should be compiled to detail information on all exploration and production drill holes, back to a prior date to be determined following advice from a reliable expert. Information on register would include: a. date when hole drilled b. tenement number and holder c. drill hole number and GPS coordinates d. status of the drill hole (capped, capped and plugged, open and productive etc.) e. date when bore hole status amended.	The department thanks Mr Erbacher for his submission and the department has noted his comments. In relation to recording legacy wells that are petroleum wells, detailed records about the wells (including that as listed by Mr Erbacher in his submission) are already kept by the chief executive of the department. This information is available to the public in limited amounts, for example through Mines Online or MinesOnlineMaps located on the department's website, subject to confidentiality. In relation to mineral (including coal) legacy boreholes, no similar information is kept in a database. While much of the information about these types of boreholes is detailed in reports about authorised exploration activity, required by legislation, the resources required to extract these details would be substantial. Given that in recent times, there has only been one reported bore that has posed a potential safety risk, the value of extracting all of this information is unlikely to be commensurate with the resources that would need to be allotted to the task.
		80	Land access - General liability to compensate	Suggested that landholder's time spent negotiating should be compensated for.	In respect to negotiating CCAs, the Land Access Implementation Committee (LAIC) was asked to review the heads of compensation to ensure no cost or erosion of landholder rights. An independent consultant was engaged to undertake a comprehensive analysis of the heads of compensation in Queensland, and the LAIC Report concluded that it would not be prudent to further legislate the heads of compensation at the current time due to the positive evolution of negotiating practice. The department is committed to implementing the LAIC Report

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					recommendations, including advice regarding the current heads of compensation, in addition to the consolidation of land access provisions.
		94	Land access - Land Court may decide if negotiation process unsuccessful	Expressed desire that concept of uncooperative landholder should not be enshrined in Bill by inference, suggesting that resource companies frequently have displayed an unwillingness to cooperate during negotiations.	The department is committed to implementing the LAIC Report recommendations, including recommendation 1(b) requiring legislative change to expand the jurisdiction of the Land Court to allow the court to examine the behaviour of the parties during negotiations. This will ensure the Land Court has clear jurisdiction to make orders, where appropriate, requiring parties to continue negotiations. This will encourage parties to negotiate in good faith during the initial negotiation stages.
		246	Notification and objections – Coordinator-General's report and approval	Mr Erbacher submits that a submitter to the environmental impact statement (EIS) and any subsequent supplementary EIS should have the right to object to the mining lease or draft environmental authority in the Land Court on conditions or statements in the Coordinator-General's report, if these conditions or statements are not consistent with the information contained within the EIS.	The Land Court has repeatedly ruled that it is unable to consider conditions set by the Coordinator-General. Once an objection is made the Court is required under both the *Mineral resources act 1989* and *Environmental Protection Act 1994* to consider the objection, they cannot be dismissed prior to hearing. As a result, where the only conditions that are objected to are conditions set by the Coordinator General, the application is unnecessarily delayed and both the applicant and objector are subject to unnecessary costs. Therefore the Bill formally precludes the existing situation where conditions cannot be appealed and reduces costs and red tape.
200	Ms Susan Beetson & Jeff Hawley	418 and 420	Notification and objections	I vehemently oppose and am sincerely concerned about clauses 418 and 420 which remove existing community notification rights and rights to object to mining lease applications. Being only 8km distance from an open cut coal mine means we will be exposed directly to coal dust completely covering our property and everything on it. Our food will also be covered in dust particles from the open cut coal mines if they go ahead and we will not have an opportunity to object despite being directly affected. We believe we have the right to be formally notified of any proposed change to the livability of our community and our entire region and that we also have the right to formally object and to take the matter to Court if necessary. We also believe anyone has the right to be formally notified and also submit formal objections and appear in Court to assist and advocate for community members and the rights of entire	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for consideration as a standard or variation application), and as such, a standard or variation application will apply. These standard and variation applications will not be subject to notification or objection rights. Please note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved

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				communities.	under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified.
		Additional issues raised by the Ms Susan Beetson and Jeff Hawley were very similar to those raised by a number of other submitters. Refer to the outline of issues and the departmental responses provided in Table 3.			
201	Arnold Rieck	245, 418, 420, 423, 424 and 429	Notification and objections	Objects to removal of existing community notification rights and rights to object. Residents of Rosewood suffering consequences of dust, noise and light pollution, destruction of habitat and scenic value of district. Notes that effects of mine spread further than specific site of mining project and objection rights shouldn't be limited to	These changes only affect notification of environmental authorities associated with mining leases, not other types of mining activities (e.g. Mineral Development Licences, Mining Claims and Exploration Permits). Numerically, the majority of mining leases in Queensland carry low environmental risk (i.e. because the activity meets the eligibility criteria for consideration as a standard or variation application), and as such, a standard or variation application will apply. These standard and variation applications will not be subject to notification or objection rights. Please

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				residence. Object to mining companies being able to walk away from leases without full rehabilitation.	note, however, that there is an opportunity for the community to have a say through a review of the eligibility criteria and standard conditions for mining activities which must be completed before 31 March 2016. This change reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified.
202	Property Rights Australia	Bill as a whole	General	It is laudable that efforts are made for effective simplified, standardised legislation and regulation across all resource activities and some provisions are sensible and necessary. However PRA believes that the balance is not in favour of landholder rights.	The department thanks Property Rights Australia for their conditional support of the proposed amendments. The department believes that the amendments in the Bill achieve the objectives of the MQRA Program. The level of protection for landholders will be maintained under the common provisions Act and in some areas improved. An example of this is the adoption of the restricted land framework across all resource authorities. For the first time, landholders affected by future applications by the petroleum and gas sector will have a right to say no to most resource activities within close proximity to their homes.
		420	Notification and objections – Affected persons	The effects of some mining projects are so wide ranging that PRA would contend that there are many neighbours and even non-neighbours who will be more "directly affected" than many simply offering access. Some will be on the same watercourse, aquifer or connected aquifer. Others will suffer production losses and/or loss of amenity. The evidence is that there have been no landowner objections which were not based on genuine concerns.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include:

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				Experience has already shown and predictions suggest that the effects of many resources activities will affect many more landowners and businesses than those within the footprint. Recommend: The definition of "directly affected" landowners and thereby who is allowed to make objections must be expanded to include immediate neighbours and everyone in the local community likely to be subjected to problems of dust, noise, access and loss of amenity including those for many kilometres impacted by water drawdown in aquifers or downstream of mining activity which may affect the water course. Recommend: Public notifications should be transparent, in plain English and with full details easily available to those in the direct footprint and to immediate neighbours and everyone in the local community likely to be subjected to problems of dust, noise, access and loss of amenity including those for many kilometres impacted by water drawdown in aquifers.	numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		Chapter 3	Land access	It is a cynical exercise to claim that property owners have certain rights or enhanced rights if they have no time or ability to exercise them. Many, many landowners are reporting that at least one member of their business unit is having to become a full time	In respect to negotiating conduct and compensation agreements, the Land Access Implementation Committee (LAIC) was asked to review the heads of compensation to ensure no cost or erosion of landholder rights. An independent consultant was engaged to undertake a comprehensive analysis of the heads of compensation in Queensland, and the LAIC Report concluded that it would not be prudent to further legislate the heads of compensation at the current time due to the positive

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				resources person with no allowance for their time. This is particularly the case where landowners are dealing with multiple resources and infrastructure companies. The concept of uncooperative landholder should not be enshrined in the Bill even by inference. PRA objects strongly to the genuine concerns of landowners being overridden in an attempt to speed up the process on behalf of mining companies. If they want to speed up the process they can pay proper compensation and take care of the concerns of landowners. Landowners simply trying to get a fair deal for themselves, their businesses and their family safety and trying not to have their time wasted are not being uncooperative. Landholder's time is treated as valueless and not compensated for. Mining companies are all too willing to waste time, call unnecessary or unproductive meetings, be inflexible with meeting times and offer no new information. These meetings are held by people who, unlike the landholder are on a payroll. Landholder's time should be paid for and it might not be wasted so readily. Recommend: The concept of "unco-operative landholder" should not exist much less be built on. There are sufficient legal avenues at every stage for it to be unnecessary.	evolution of negotiating practice. The department is committed to implementing the LAIC Report recommendations, including advice regarding the current heads of compensation, in addition to the consolidation of land access provisions.
		N/A	Notification and objections	Landowners have also pleaded with Government to lengthen timeframes to respond to mining leases and environmental authorities. The limited notification, concurrent timeframes and short timeframes for time poor landowners to respond to applications by companies, who have fully paid, professional document preparers, readers, negotiators, solicitors and many more will clearly disadvantage some landowners.	The department notes the concerns expressed. The Bill maintains the status quo for timeframes for notification of mining lease and environmental authority applications.
		68	Restricted land – Definition/application	Some previously protected infrastructure such as bores etc have been removed from the restricted areas list. This restriction only applies to activities which are likely to cause surface disturbance and not likely to include noise, dust and	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
				loss of amenity. The restricted land distance should be 600 metres and landowner's bores must be afforded a greater protection of 600 metres because of the high probability of damage from activities such as seismic explorations, blasting and fracking. A restrictive land distance of 50 metres should apply from property water infrastructure, stock yards and farm sheds.	that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation. While the actual restricted land distance is proposed to be prescribed by regulation, consultation on a proposed distance of 200 metres from permanent buildings for exploration and production authorities was undertaken. If this was adopted, it would mean that a CCA for preliminary activities would no longer be required between 600 and 200 metres. Within 200 metres, owners and occupiers would have the right to give consent and any conditions, and in addition a CCA would be required for any advanced activities. Additionally, the resources Acts work in tandem with the *Environmental Protection Act 1994*, to ensure the appropriate environmental safeguards are in place to protect the environmental features of the land, including the potential impacts from dust and noise, etc.
		68	Restricted land – Point when it applies	The granting of restricted land at the time of granting the original resource authority severely limits the optimisation and flexibility of businesses and future improvements.	The grant of a resource authority was set as the point in time when restricted land applies to achieve some compromise between the existing frameworks this policy is intended to rationalise and to balance the interests of landholders with the proposed resource activity. Regardless of whether restricted land applies, the conduct and compensation agreement (CCA) framework has, and will continue to apply for advanced activities.
		567	Legacy boreholes	Shine Lawyers recently raised concerns in rural media about remediation activities affecting the process of negotiations for "make good" agreements. If this is simply a case of inadequate drafting we ask that it be clarified immediately. It should be made clear in legislation that if a bore that is considered "dangerous" is remediated and the bore is a bore used for, or capable of being used for primary production "make good" provisions, preferably a replacement bore, should be immediately implemented. Amendments proposed for the Petroleum & Gas Act by inserting clause 567, section 294B appear to allow anyone who is authorised by the Chief Executive to remediate any	The amendments are not intended to interfere with an operating water bore and any potential of current make good arrangements between a landholder and petroleum operator. The amendments deal with urgent matters of safety and have been drafted broadly to make sure boreholes with safety issues can be fixed, wherever the borehole is located, and regardless of whether the borehole type and owner is known. The legislation needs to be flexible to deal with many different circumstances and scenarios, for example, there are boreholes transferred to landholders to use for water but not yet converted to a water bore. In some cases it will not be known who the owner of the bore is (i.e. whether it is the landholder, resource company, or government). Chapter 3 of the *Water Act 2000* provides a make good framework for water bores

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				bore which is emitting gas without any provision for the rights of the landholder including notification and compensation. This appears to be in conflict with provisions in the Chapter 3 of the *Water Act 2000* and would lead to a loss of landholder rights. Recommend: Make good arrangements should be improved upon, not impeded, by provisions in this bill.	impacted by a petroleum tenure holder's exercise of their underground water rights. The amendments do not prevent negotiations for make good agreements which would otherwise be or are required under Chapter 3 of the *Water Act 2000*, or stop the application of existing agreements. It is also worth noting that make good measures such as the drilling of a replacement bore are only required if it has been determined that water level declines are due to the exercise of the petroleum tenure holder's underground water rights. Depending on the particular circumstances, other causes for water level decline, along with increased gas in a water bore, can include drought or other water extracting industries.
202	Property Rights Australia	Bill as a whole	Important matters left to regulation	Too many important provisions have been left to regulation. This creates a difficulty in writing a fully informed submission and creates a concern for the future as regulation can more easily be amended in comparison to legislation. Supporting regulation should be allowed public consultation as well as public submissions and hearing before the parliamentary committee.	The approach taken in the Bill should be considered in the context of the existing resources Acts being very prescriptive. Highly prescriptive, rigid and detailed legislation is restrictive and does not allow the government to be responsive to the dynamic environment within which the resource industry operates. It is important to get this balance right to ensure crucial investment is not lost to other jurisdictions with simplified frameworks. Any new or changes to regulations are still subject to the Regulatory Impact Statement (RIS) System that can require detailed cost-benefit analysis of proposed changes and detailed consultation. All regulations must be tabled in Parliament where a disallowance motion can be moved. While the regulations are reviewed and reported on by a Parliamentary Committee, they are not subject to public submissions or hearings. The Blueprint (available on DNRM website, p.22) for the strategy on how the department is to operate identifies as a key enabler of reform—the modernisation of our regulatory framework through making sure legislation is practical and easy to administer and removing prescriptive regulations to enable more flexibility for businesses, landholders and the community.
		44	Land access - Deferral agreements	These clauses offer little benefit or protection to the landholder and increases the risk of the landholder being taken advantage of.	This provision has been migrated across from the existing resources Acts and maintains the status quo. A deferral agreement allows the parties to postpone entering into a conduct and compensation agreement until a later date. Where a deferral is in effect, the resource authority holder may enter the land and undertake advanced activities.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
		45	Land access - Right to elect to opt out	This clause offers little benefit or protection to the landholder and increases the risk of the landholder being taken advantage of.	The department notes the concerns raised. However the opt-out agreement framework was recommended by the Land Access Implementation Committee (LAIC) Report, which resulted from a prolonged and extended period of review and consultation with peak agricultural and industry representatives. The opt-out agreement may be entered at the election of the landholder, which offers a level of protection against the landholder being taken advantage of. The department is committed to implementing the LAIC recommendations, including recommendation 4.2 which requires the development of a factsheet by the department to be provided to landholders prior to the execution of an opt-out agreement. This is designed to ensure landholders are aware of the implications and consequences of entering into such an agreement.
		Bill as a whole	Non Prescriptive terms	The use of non-prescriptive terms, such as "reasonable" should be avoided for their ambiguity and opportune meaning. More precise definitions should be used.	The department thanks Property Rights Australia for their submission. The department considers that the use of these terms in the relevant clauses achieves the policy intent. These terms are widely used and accepted in the drafting of legislation to provide flexibility to accommodate the range of scenarios that may be captured.
		Bill as a whole	Consultation on the Bill	It is recommended that consultation, parliamentary committee deliberations and redrafting of this bill not be constrained by tight time frames. This is a highly complex bill, the start of a process where five resources acts will be migrated to a single Act. This bill will serve this State for many years in the future and as much time as needed should be allowed to get it right.	The department notes the views expressed by Property Rights Australia.
		Chapter 3	Land access	We recommend that no mining lease should be granted without Conduct and Compensation agreements in place. That includes no impact or low impact resource activity.	A compensation agreement must be in place before a mining lease is granted.
		N/A	Rehabilitation of resource authority area	PRA believes that at the conclusion of resource activity the land must be restored to its full productive capacity.	Rehabilitation of land subject to a resource activity is a requirement under the *Environmental Protection Act 1994*.
203	Mackay Conservation	418, 420 and 423	Notification and objections	Land Court one of the few instruments available to the public to have risks of projects more impartially evaluated than by a	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
	Group			State Development Coordinator. Land use decision making processes for other industries provide for community submission and appeal rights so no good reason why mining tenure should be exempt from this basic standard. Bill would remove all existing public rights to lodge formal objections to the Land Court in up to 90% of mining projects in Queensland. Refers to Alpha Land Court decision. If objection rights are reduced to only the directly affected landowner there is no impartial party left to speak for broader environmental and community impact issues. If a landholder owns land outside of the resource authority but is affected by activities within the tenement by way of dust, noise, odour etc. Under the existing regime in the P & G Act an argument could be made that, provided it could be proven that a compensatable effect has been or will be suffered, the resource authority has a compensation liability to the landholder under section 532 of the P&G Act as they are in the "area of" the resource authority. However, by restricting the clause to apply to owners or occupiers who are only in the "authorised area" of the resource authority (i.e. the area which the resource authority relates to), such claims may be extinguished. A landowner who lacks the financial resources to object in the Land Court would be no better off under this bill than those outside the affected property and will also be disenfranchised.	for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
		429	Restricted land – Mining Lease	Under clause 429 a landowner's home could be destroyed by an open cut mine.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (Clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding any such mining lease application.
		68	Restricted land – Infrastructure types	The areas protected by the restricted land provisions are substantially less than those currently protected under the *Mineral Resources Act 1989*. Many of the areas which have been removed are essential to the operation of a farming business and to "do away" with them will place farmers and others at a significant disadvantage in what is already an imbalanced negotiation. It will no longer be a question of whether or not the landholder will be able to continue his operation or retain the piece of infrastructure, but rather, a question of compulsory acquisition and/or compensation.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.
		Bill as a whole	Regulations	The use of regulations can be a means of ignoring sound legislative drafting techniques and good government. All of the items proposed to be left for regulations throughout the Bill are extremely important and should be given full legislative backing and opportunity for the public to make submissions.	The approach taken in the Bill should be considered in the context of the existing resources Acts being very prescriptive. Highly prescriptive, rigid and detailed legislation is restrictive and does not allow the government to be responsive to the dynamic environment within which the resource industry operates. It is important to get this balance right to ensure crucial investment is not lost to other jurisdictions with simplified frameworks. Any new or changes to regulations are still subject to the Regulatory Impact

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					Statement (RIS) System that can require detailed cost-benefit analysis of proposed changes and detailed consultation. All regulations must be tabled in Parliament where a disallowance motion can be moved. The Blueprint (available on DNRM website, p.22) for the strategy on how the department is to operate identifies as a key enabler of reform—the modernisation of our regulatory framework through making sure legislation is practical and easy to administer and removing prescriptive regulations to enable more flexibility for businesses, landholders and the community.
204	DA and KA Yeigh	Refer to Table 3			
205	Sandy Bratt	418, 420, 245, 423, 424 429	Notification and objections	Objects to removal of right to be notified of mining lease and ability to object to same.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as

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					such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
206	N/A				
207	Paula and Ken Outzen	Refer to Table 3			
208	Kenneth William & Rita Claire Varidel	Refer to Table 3			
209	Catalyst for Transition	Refer to Table 3			
210	Confidential				
211	Burnett Holdings (NQ) Pty Ltd	68	Land access	Does not support the changes to the restricted land framework and believes the current framework allows for the parties to negotiate easing of restricted access if required.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to

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					manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.
212	Origin Energy	3	Bill as a whole	Origin is supportive of the Bill and understands that the proposed amendments are designed to reduce unnecessary red tape for industry whilst maintaining a clear and streamlined regulatory environment.	The department thanks Origin Energy for their support for the proposed amendments.
		N/A	N/A	Support submission of APPEA.	The department notes Origin Energy's support for APPEA's submission.
		68	Restricted land – Definition	The definition of 'restricted land' lacks clarity. Greater clarification is suggested, specifically with regard to: • Whether restricted land will apply to a building or area which that was used at the time of grant of the tenement, but no longer in use; • Whether restricted land will apply to preliminary activities; • Whether restricted land arises where an activity is being conducted on land that is within the 'restricted land buffer' of the neighbouring property; • The definition of co-existence.	A building or area that is restricted land at the date the authority is granted will continue to be restricted land during the life of the authority. If the building or area is no longer in use, consent from the owner or occupier should be more readily available. This proposal seeks to give balance where buildings or areas constructed by the landholder post grant will not be restricted land. Where there is disagreement, the ability to apply to the Land Court for a declaration under clause 72 will be available. Subject to the exemptions in clause 67(b), the landholder has the right to give consent to any authorised activities within the restricted land distance, within the prescribed distance. Where consent is given, a conduct and compensation agreement (CCA) would be required for any advanced activities to be conducted within the restricted land area. A CCA, however, would not be required for preliminary activities anywhere on a property. Restricted land does apply to activities on neighbouring properties that would fall within the prescribed distance. It would be impractical to have a comprehensive list of buildings that cannot co-exist with authorised activities as this would depend on the circumstances of the case, e.g. nature of the business or purpose the building is used for, and the activities proposed and whether it can be easily relocated and cannot co-exist etc. Under the existing restricted land framework for the mineral and coal sector, all permanent buildings used for business purposes trigger restricted land. Notably under this Bill, this will not be the case. This aligns with an outcomes based framework that provides flexibility to deal with individual cases. The Explanatory Notes provide some examples of buildings for business purposes

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					that would likely generate restricted land including a veterinary practice or retail premises. Examples are also provided of buildings that would unlikely generate restricted land including a pump shed, hayshed, roadside stall or a building used for temporary accommodation.
		69 and 70	Restricted land – Who is a relevant owner or occupier	Origin notes that the term 'occupier' is a broad class of persons, the consent of which may be difficult to obtain, especially in regard to restricted land. Origin suggests requiring consent from an 'owner' only and removing the reference to 'occupier'.	Occupiers have been included in the restricted land framework as it is not uncommon for family members to occupy other houses located on large properties as their primary residence that are owned by other family members without formal arrangements. Other occupiers would include tenants renting a house or a lessee of a business premises. A distance of 200 metres has been consulted on as a potential range for restricted land to apply. Any occupiers that have a right to occupy within such a relatively small distance should be readily identifiable in consultation with the owners.
		54	Land access – Notice to owners and occupiers	It is currently unclear whether s 513 of the *Petroleum and Gas (Production and Safety) Act 2004* applies to advanced activities only. Origin recommends clarifying this issue in the drafting.	This provision has been migrated across from the existing resources Acts and maintains the status quo. The provision requires a resource holder to provide a notice where the land has been entered to carry out authorised activities. Authorised activities are defined under the Bill as having the meaning given by the resources Acts, the relevant authority was granted under. Upon the commencement of the Bill, section 513 of the *Petroleum and Gas (Productions and Safety) Act 2004* will be repealed.
		80(4)(b)	Land access – Compensation for legal costs	In accordance with the requirements of the P & G Act, Origin currently compensates landowners for legal costs necessarily and reasonably incurred by the landowner in negotiating or preparing a conduct and compensation agreement. Origin suggests further consultation on this point to discuss the possible mechanisms to place rigor around the reasonableness and necessity test (as it is currently quite subjective).	Clause 80(4) provides a list of categories of effect that compensation may be claimed against. This provision has been migrated across from the existing resources Acts and maintains the status quo. The Land Access Implementation Committee (LAIC) was asked to review the heads of compensation to ensure no cost or erosion of landholder rights. An independent consultant was engaged to undertake a comprehensive analysis of the heads of compensation in Queensland, and the LAIC Report concluded that it would not be prudent to further legislate the heads of compensation at the current time due to the positive evolution of negotiating practice. The department is committed to implementing the LAIC Report recommendations, including advice regarding the current heads of compensation.
		86	Land access - ADR	Judicial commentary suggests that an ADR process may be forced upon one party by another. Origin suggests clarifying	Unresolved legal questions have arisen as a result of *Australia Pacific LNG Pty Ltd v Golden & Ors* [2013] QCA 366 regarding what occurs when a party does not

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				this section to avoid doubt that the process must be mutually agreed in writing.	agree to an ADR process as elected by the other party as per clause 86(2)(b) (which reflects the current resources Acts). The department is currently investigating potential solutions to provide clarification and if legislative amendment is required, will provide amendments in a future Bill.
		93	Land access – Successors in title	Further clarification is required to refer to 'successors in title' and 'opt out agreements' in regard to compensation not affected by a change in the resource authority holder. Orgin recommends including successors in title in s 93(1)(c) and including opt-out agreements as well as CCAs.	The department thanks Origin for identifying the inconsistency in the use of the term 'successors in title', which has resulted from migrating provisions across from the existing resources Acts under this Bill. The department will take this recommended change under consideration. Clause 93 specifies that conduct and compensation agreements, road compensation agreements, or specified decision of the Land Court are binding upon successors and assigns. This provision has been migrated from the existing resources Acts. The department is currently considering whether opt-out agreements should be included within clause 93 as binding on successors and assigns.
		Chapter 4 and Chapter 7, part 4	Overlapping tenure – Bespoke agreements	The Bill does not explicitly allow for parties to negotiate bespoke agreements as an alternative to the legislative defaults. This ability was a fundamental principle of the White Paper and needs to be properly reflected.	The Bill as drafted does currently contain some flexibility for the parties to agree to arrangements that differ to that provided in the statutory framework. For example clause 114(2) provides the ability to agree to a mining commencement date that is different from the ones provided for in the relevant clauses of chapter 4 and chapter 7. However, the department is continuing to work with industry to ensure that the new overlapping tenure framework provides some flexibility for the parties to, in certain circumstances, enter into alternative arrangements to those established in the framework. The department is investigating options to make clearer that the parties may agree to alternative arrangements to those prescribed in the new overlapping tenure framework, except to the extent of certain prescribed aspects which are required for the State to discharge its custodian obligations.
		144 and 145	Overlapping tenure – Petroleum lease activity over an EPC/MDL	Origin supports that coal exploration parties should be allowed to conduct exploration activities within a petroleum lease if there are no adverse effects and subject to the directions from the PL holders safety officer. However there appears to be an error in the drafting which may limit a PL holder from conducting activities over a MDL or EPC unless there is no adverse effect to the coal party. This is not in line with the principles of the White Paper and could result in coal parties being able to prohibit activity on a granted production	The department notes Origin's comments that the Adverse Effects Test approach in Clause 145, so far as it applies to a PL, is inconsistent with the White Paper. The department is working to resolve the matter.

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				lease. Origin recommends removing the reference to a PL in column one of the Table for Part 3 in Section 144 and changing the requirement to reflect the principles in the White Paper.	
		231-233	Overlapping tenure – Surat Transitional Area	The Surat area was highlighted during the White Paper discussions because of its importance to the development of the CSG-LNG industry. The current Bill provides some certainty for CSG-LNG in the Surat but represents a significant compromise from CSG's original position in the White Paper, which was for the current existing regime to apply in that area.	The department appreciates that the matter of transitional arrangements for the Surat Basin geographical area is a contentious issue for the resource industry. This is evident in the fact that the parties failed to reach an agreed position on the matter in the White Paper and turned to government to resolve this matter. These particular transitional arrangements reflect the advice given to industry via correspondence dated 26 November 2013. The department understands that QRC and APPEA are in the process of leading further discussions with industry on this particular matter and will be providing additional advice regarding possible amendments to this division of the Bill in the near future.
		Chapter 4	Overlapping tenure – Grandfathering existing agreements/consent	Co-development agreements, coordination agreements and JDPs that cover ungranted Petroleum Lease and Mining Lease applications at commencement of this Bill and executed prior to commencement of this Bill need to be honoured. Further work is required to determine how existing Co-development agreements, coordination agreements and JDP's will work.	The department notes Origin's concerns. The Bill is prospective, not retrospective and therefore will not impact on existing agreements between parties with granted tenures. Furthermore, it is important to note that the existing legislation does not recognise co-development agreements or joint developments plans. The requirement for a joint development plan is a new requirement for the overlapping tenure framework. These are intended to be a replacement for the current coordination arrangement and should reflect the information required by the State (to discharge its custodian obligations) that is included in any commercial agreement (whether default or bespoke) between the parties. The department thanks Origin for bringing the matter of existing coordination arrangements for ungranted MLAs and PLAs at the time of commencement. The department is working to resolve this matter.
		221 and 222	Overlapping tenure - Existing Production Leases granted prior to commencement of this Bill need to retain their current rights	Sections 221 and 222 are meant to ensure that granted PLs and MLs that exist at the commencement of the new regime should not be subject to the new regime at all, and should continue to be governed by the old regime. This should be clearly stated in those sections, specifically, that new MLAs made from EPCs and MDLs over existing PLs and new PLAs that are made over existing MLs are to be dealt with under	The department notes Origin's comments and is working to clarify the matter.

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				the old provisions.	
		Chapter 4	Overlapping tenure - Outcomes of the statutory requirements of the previous Acts need to be retained	Origin queries whether an ATP or EPC and MDL holders who did not comply with the threshold requirements to seek a preference decision (ie did not lodge three month notices) should receive any benefit that may apply under the new regime or whether such applications should proceed under the old provision.	The department notes Origin's concerns. However, this scenario was not considered in the White Paper. The department's interpretation would be that the new overlapping tenure framework would apply, as written in the Bill.
		Chapter 4	Overlapping tenure – Concurrent applications	Addressing concurrent applications for Petroleum and Mineral Leases (PL/ML) requires further clarification. Origin will continue working with industry and government to develop a balanced outcome between petroleum and coal interests.	The department notes Origin's comment regarding concurrent applications. The department understands that APPEA and the QRC are coordinating discussions with industry on this particular matter and will be providing additional advice to the department regarding possible amendments.
		126(4)	Overlapping tenure – IMA/RMA	Section 126(4) of the Bill allows the ML holder to occupy and IMA or RMA for an indefinite period to carry out rehabilitation. This occupancy could result in the PL/ATP holder being unable to enter the area to carry out activities until the rehabilitation is completed. A drop dead date for the ML holder to abandon an IMA or RMA should be stated.	The department notes Origin's concerns with the clause. However, the proposed legislative amendments in the Bill have been developed to meet the agreed position as provided in the White Paper, which does not provide for a statutory abandonment date.
		131	Overlapping tenure - Petroleum Lease activity outside IMA/RMA/SOZ	The White Paper Principles contemplated that a PL holder would be free to carry out its activities in the balance of the PL/ML overlap area outside the IMA, RMA and SOZ, but the ML holder would have the "right of way" inside the IMA and RMA and the SOZ would be subject to safety and health arrangements. Section 131 of the Bill does not make this distinction and should be amended to align with the White Paper.	The provisions in question have no impact on the agreed industry position that the PL holder may undertake authorised activities outside the area of the IMA, RMA or SOZ (safety and health obligations applying). Section 131(2) does not affect the right of an ATP or PL holder to continue to carry out authorised activities for the petroleum resource authority under their work program or development plan. Only once the agreed joint development plan is in place (i.e. agreed to and lodged under section 127 which identifies the IMA/RMA/SOZ) is the ATP or PL holder obligated to comply with the agreed joint development plan under section 131(2).
		Chapter 9, part 3 – division 3 part 4 –	Legacy boreholes	Origin has indicated to Government that work still remains in relation to a number of unresolved issues and Origin welcomes the opportunity to continue to engage about these	The department notes the submission and acknowledges further work to be done on funding and revision of the Protocol.

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		division 6 part 5 – division 6 part 7 – division 7 part 9 – division 6 part 10 – division 7		outstanding issues.	
213	Bruce and Wendy Derrick	Refer to Table 3			
214	Ms Joanna Kesteven	Refer to Table 3			
215	W.R. Easton & C.A. Bettridge	Refer to Table 3			
216	Ms Cherie Dunshea	Refer to Table 3			
217	Arrow Energy	N/A	N/A	Arrow is supportive of the APPEA submission on the Bill.	The department notes Arrow Energy's support of APPEA's submission.
		90	Land access – Particular agreements to be recorded on titles	Some conduct and compensation agreements (CCA) can be for low impact activities and for short periods of time. Requiring CCA's for low impact activities for short periods of time to be updated with the Titles registry will add administrative burden as these could be frequent occurrences. A potential solution is to exclude low impact activities or activities that occur within a short timeframe for example 6 months or by tenure type.	The department notes the concerns and recommendation raised by Arrow Energy. The purpose of the Land Access Implementation Committee (LAIC) recommendations requiring relevant agreements to be noted on title was to ensure that a prospective purchaser of a property is made aware that they exist and can investigate the terms and conditions that may apply to them as a future owner. This recommendation was developed by peak agricultural and industry representatives sitting on the LAIC, and originated due to stakeholder concerns about the potential for a property to change hands without a purchaser's knowledge that an agreement exists. To deliver certainty to prospective purchasers and give full effect to the LAIC recommendation, all relevant agreements will need to be noted upon title to eliminate this risk.

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		127 and 131	Overlapping tenure – Joint Development Plan	A potential solution is for the legislation to be clarified in section 131, so that the absence of an agreed JDP will not prevent a PL holder from continuing authorised activities that pre-existed ML grant in the overlapping area.	The department notes Arrow Energy's concern regarding an agreed joint development. The provisions in question have no impact on the agreed industry position that the PL holder may undertake authorised activities outside the area of the IMA, RMA or SOZ (safety and health obligations applying). Section 131(2) does not affect the right of an ATP or PL holder to continue to carry out authorised activities for the petroleum resource authority under their work program or development plan. Only once the agreed joint development plan is in place (i.e. agreed to and lodged under section 127 which identifies the IMA/RMA/SOZ) is the ATP or PL holder obligated to comply with the agreed joint development plan under section 131(2).
		149	Overlapping tenure – Information disclosure	Section 149(2)(b)(i) allows a recipient to disclose information to another person if "the disclosure is to a person (a secondary recipient) whom the recipient has authorised to carry out authorised activities for the recipient's resource authority". This provision is too restrictive in that it doesn't cover a recipient disclosing information to a related body corporate, shareholders, consultants and advisors who may require the information but aren't directly involved in carrying out an authorised activity. For example, the provision of information related to an ICSG offer to an external law firm engaged to draft the ICSG supply contract. A potential solution is to extend section 149(2)(b)(i) to permit disclsore to a related body corporate, shareholders, consultants and advisors if related to the carrying out of authorised activities.	The department notes Arrow's concern and is investigating options to resolve the matter.
		Chapter 4	Overlapping tenure - Incidental coal seam gas	The industry White Paper which was the basis for this part of the legislation accepts that the basic property rights to gas resides with the holder of the petroleum tenement, and that in return for agreeing to a right of way for coal mining, there should be a well-defined compensatory right for the petroleum tenement holder to take any ICSG produced by the ML holder.	The department notes Arrow's comments. The department will continue to work closely with Arrow and other key external stakeholders during the development of the regulation to ensure it reflects the intent of the White Paper and remains relevant.

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				In essence, that is a right to take gas that the petroleum tenement holder could otherwise have produced themselves for the right of way for coal mining. Of fundamental importance to this trade-off is a requirement that the ICSG be produced by the ML holder in a form aligned with the requirements of the petroleum tenement holder, and then offered on terms that could be reasonably be accepted (a "valid offer"). It follows that the ML holder's right to commercialise ICSG should only arise when a valid offer has been rejected and further, that compensation liabilities are offset only when a valid offer has been rejected. The production and offer requirements for ICSG therefore have a flow-on effect from Division 4 of the Bill dealing with ICSG to Division 3 dealing with compensation and dispute resolution, and to the MRA amendments dealing with the commercialisation of ICSG. It is therefore important that the requirements for ICSG production in overlaps and for an offer of the ICSG to be valid are clearly enshrined in the legislation itself. A potential solution could be for the Regulations to stipulate that the contract for the delivery of ICSG include; a. a delivery point where the petroleum resource holder can sensibly take the gas; b. arrangements for industry standard metering and regular reporting c. a contribution to the direct reasonable costs incurred by the ML (coal) holder in making the accepted incidental coal seam gas available at the delivery point d. obligations to forward plan together to foster investment certainty and minimise impacts to each other's activities resulting from amended development plans e. an obligation on the ML (coal) holder to provide,	

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				at a minimum, annual updates to expected gas quality and quantities; and f. provisions to ensure compliance with Part 4 Division 1 concerning information exchange. A potential solution regarding a valid offer and re-offer for ICSG is for Regulations to include: a. the ML (coal) holders mine plan(s) and associated degassing plan b. the degassing plan's schedule including details of the timing of when gas wells will commence production of incidental coal seam gas c. a description of the degassing methods and the measures that will be taken to avoid contamination and dilution d. gas reservoir modelling that underpins the degassing plan e. mapping identifying degassing wells, pipelines, associated infrastructure and the proposed delivery point; and f. details of the expected quality and quantities of incidental coal seam gas for each 6 month period of forecasted production.	
218	Agforce	68	Restricted land – Definition/application	Concerned that landholders rights in the area of resource activity on their property should not be reduced, and that the highest level of landholder rights avail. The removal of principal stockyard, bore or artesian well, dam and artificial water storage is cause for concern, and the removal of the 600 metre rule reduces opportunities for landholders to negotiate with resource companies about activities occurring within 600 metres of the homestead.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.

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					While the actual restricted land distance is proposed to be prescribed by regulation, consultation on a proposed distance of 200 metres for exploration and production authorities was undertaken. If this was adopted, it would mean that a CCA for preliminary activities would no longer be required between 600 and 200 metres. Within 200 metres, owners and occupiers would have the right to give consent and any conditions, and in addition a CCA would be required for any advanced activities.
		45	Land access – Opt-out agreements	Support the Ministers recommendations via this Bill but note that the opt out clause in relation to signing a CCA must come with stringent processes whereby landholders are fully informed of what rights they are waivering.	The department thanks AgForce for their support of the proposed provisions resulting from the Land Access Implementation Committee Report. An opt-out agreement is invalid if it fails to comply with the prescribed requirements, which will reflect the Land Access Implementation Committee Report recommendations 4.1 – 4.5. This will include the requirement that the landholder has been provided with an opt-out factsheet (developed by DNRM) about the significance of opting out of entering a formal conduct and compensation agreement.
		Common Provisions Act	MQRA Program	While Agforce certainly supports processes which simplify complex legislation across different but similar frameworks the concern is that at no point should this reduce landholder's rights in the area of resource activity on their property. If there is to be a commonality it should be based on whatever is the highest level of landholder rights available in whichever current Acts. Changes should not be watered down to the point whereby there is no practical outcomes for landholders.	The department considers that the amendments in the Bill achieve the objectives of the MQRA Program. An example of this is the adoption of the restricted land framework across all resource authorities. For the first time, landholders affected by future applications by the petroleum and gas sector will have a right to say no to most resource activities within close proximity to their homes.
		Chapter 4 and Chapter 7, part 4	Overlapping tenure	Currently many producers have overlapping tenures which leads to confusion and excess time managing outcomes with competing resource companies. A more streamlined tenure process may limit stress on landholders where uncertainty prevails about when and how tenure holders will implement their activities.	The department thanks AgForce for their comments and notes the views expressed.
		Chapter 9	Small scale alluvial miners	Exemptions should be handled carefully to ensure landholders are still fully informed of potential activities on	It is assumed that Agforce is commenting on the provisions in the Bill providing for alternatives to physical marking the boundaries of a mining lease or claim. In all instances landholders will be advised of applications for mining claims and leases.

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				their land.	The requirement for any methodology for marking the boundary is that the boundary be clear and unambiguous and capable of being realised on the ground.
		Chapter 9, part 3 – division 3 part 4 – division 6 part 5 – division 6 part 7 – division 7 part 9 – division 6 part 10 – division 7	Legacy boreholes	Legacy boreholes is an issue that AgForce members have been concerned about for some time. Given complexity of liability and old tenure holders versus new it is imperative that some clarity be provided in legislation to enable responsible action on fixing these boreholes. AgForce would welcome changes that improve the ability for the Department of Natural Resources and Mines to authorise remediation of these boreholes on a more consistent, urgent basis.	The department notes the submission and confirms that the proposed amendments do go some way to provide clarity that tenure holders are not liable for legacy boreholes; and that where legacy boreholes present a safety concern there would be provision for the State to authorise remediation.
		420	Notification and objections - Reduction in public notifications	The development of large resource projects often impacts on neighbouring properties as well as the directly impacted landholders. While the current system has allowed for particular interest groups objection rights (when they may not necessarily be impacted but have philosophical objections) the removal of these notifications will mean landholders in the vicinity who often have legitimate concerns will not be aware of what is about to occur with a particular mining lease that could impact on them.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or

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					through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		423 and 424	Notification and objections – Land Court issues	It is vital that landholders directly affecting by a mining lease can have unresolved matters of importance dealt with by an authority capable of providing an outcome. The discussion paper is not clear about the possible replacement of some of the Land Court functions. While certainly the current system is an expensive proposition for landholders in terms of resolving disputes any replacement system needs to be accessible, affordable and capable of providing resolution for serious issues.	The current function of the Land Court is not being replaced. Landholders directly affected by the proposed mining lease will still have access to the land court in regard to matters concerning the mining lease including the extent, type, purpose, intensity, timing and location of operations, the current and prospective uses of the land; and whether the proposed operation conforms with sound land use management. The refinement of matters which can be objected to the Land Court reflects modern drafting style, ensures that environmental matters are considered under the *environmental protection Act 1994* rather than being appelalble under two separate jurisdictions and removes unnecessarily broad and ill-defined grounds such as in the public interest or if a good reason has been shown. The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary overlap in jurisdiction and providing more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they

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					own and manage to object to the Land Court in regard to those direct impacts under the Mineral Resources Act 1989. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the Mineral Resources Act 1989 to condition. This, in turn, increases the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Mining Minister must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been excluded from the Court's consideration.. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.
219	Fiona Hayward	420	Notification and objections – Affected	Concerned that only "directly affected persons" will be able to object to Mining Lease applications. In our present situation, an open-cut mine extension is proposed on land	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs

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			persons	adjacent to our property. If the Bill becomes legislation we are concerned that we will not have objection rights to the MLA, even though the mine will be less than 2km from our homestead, sheds, and cattle yards.	for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.

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		68	Restricted land – Infrastructure types	Concerned at the proposed definitions of "Restricted Land" in the Bill. We believe these changes have the potential to affect landholders throughout Qld who have to deal with resource companies, as at present we are at least able to claim some measure of protection for our stockyards, worksheds, and water supplies such as dams, bores & turkey-nests, etc. But the Bill does not appear to recognise these areas of agricultural infrastructure. Concerned as to what this will mean in future negotiations with resource companies.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Potential impacts on stockyards, bores, artesian wells, dams and other artificial water storages connected to a water supply are already managed under the conduct and compensation agreement (CCA) framework for petroleum and gas sectors. The proposed changes ensure that this approach is consistent across all resource sectors. The conduct and compensation agreement framework provides a mechanism to manage potential impacts on these infrastructure types as a range of potential solutions exist to ensure appropriate conduct and compensation.
220	Ms Nicole Read	Refer to Table 3			
221	Ms Veronica Baas	Refer to Table 3			
222	Ian William Scholer	68	Restricted land – Definition/application	Objects to proposal to allow mining companies to lease land and carry out mining activities that may be within earshot of residential premises.	The intent of the restricted land framework is to provide certainty for landholders near their homes and other critical infrastructure. Currently a conduct and compensation agreement (CCA) is required for any activity within 600 metres of a school or occupied residence (600 metre rule). Preliminary activities outside 600 metres do not require a CCA. Preliminary activities involve walking, driving along an existing road or track, taking soil or water samples, geophysical surveys not needing site preparation, some types of minimal impact surveys and survey pegging. Anything else is an advanced activity which includes drilling, clearing, road construction and seismic surveying using explosives. Any advanced activity requires a CCA. Under the changes proposed by the Bill, a CCA would not be required for preliminary activities anywhere on a property. However, within the restricted land distance, the landholder has the right to give consent to most activities being undertaken within that distance.
223	Mr Jim Stewart	Refer to			

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		Table 3			
224	Ms Lynette Singleton	Refer to Table 3			
225	Mr Kelvin Sypher	Refer to Table 3			
226	Grace O'Brien	420	Notification and objections	Object to the removal of community rights to object to mining leases. Disregards rights of landowners.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners,

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					occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
227	Wade Bradley	420	Notifications and objections	Objects to removal of right to object to mining operations which may impact health and quality of life.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply.

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					The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
228	Ms Haley Burgess	Refer to Table 3			
229	Ms Luana Storni	Refer to Table 3			
230	Ms Harsha Prabhu	Refer to Table 3			
231	Mr Peter Taylor	Refer to Table 3			
232	Mr Jacob van Noord	Refer to Table 3			
233	Ms Toni Holland	Refer to Table 3			
234	Karen Thompson	420	Notifications and objections	Objects to diminishing rights to object to mining lease applications. Puts mining development before community.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general.

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					The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.

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235	Kathy Barry	N/A	N/A	No issues raised.	The department cannot respond to Ms Kathy Barry's submission as no issues were raised in relation to the Bill.
236	Simon Tickler	N/A	General	Objects to further coal mining.	The department thanks Mr Simon Tickler for his submission and notes his views.
237	Karman Lippitt	N/A	General	Proposals dangerous and short sighted.	The department notes the views expressed.
238	Mr Jim Stewart	Same person as submission number 223.			
239	Mr Bruce Mouland	Refer to Table 3			
240	Judith Cordie	N/A	General	Objects to mines infringing on dwellings, properties and waterways.	The department thanks Ms Judith Cordie for her submission and notes the views expressed.
241	Mr Peter Stuart	Refer to Table 3			
242	Ms Jodi Pattinson	Refer to Table 3			
243	Mount Beppo Community Action Group	Refer to Table 3			
244	Aza Saint	Refer to Table 3			
245	Ms Melissa Bird	Refer to Table 3			

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
246	Mr Peter Davis	Refer to Table 3			
247	Ms Dianne Vavryn	Refer to Table 3			
248	Mr David Price	Chapter 9	Notification and objections	Mr Price does not support the amendments regarding objection and notification.	The department thanks Mr David Price for his submissions and notes the views expressed. The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the

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					Mineral Resources Act 1989 is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
249	Ms Jenny Williams	429	Restricted land – Mining Lease	Removal of restricted land status when the miner is granted exclusive surface rights to access land removes one of the few rights of vulnerable landholders. No-one should have the land surrounding their house destroyed by an open-cut mine yet this would be possible under this clause.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (Clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding any such mining lease application.
250	Mr Dan Gibson	Chapter 9	Notification and objections	Mr Gibson does not support the amendments regarding notification and objection.	The department thanks Mr Dan Gibson for his submissions and notes the views expressed. The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The

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					department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
251	Andy Tarnish	Refer to Table 3			

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252	Ms Alison Rickert	Refer to Table 3			
253	Mr Staurt Cronshaw	N/A	General	Community should have a voice and has the right to have that voice heard.	The department thanks Mr Staurt Cronshaw for his submissions and notes the views expressed.
254	Ms Louise Rose	Refer to Table 3			
255	Ms Sylvia Jahn	Refer to Table 3			
256	Ms Jacinta Jackson	Refer to Table 3			
257	Mr Peter Smith	Refer to Table 3			
258	Ms Kerry Green	Refer to Table 3			
259	Ms Karen Klee	Refer to Table 3			
260	Win Willcox	N/A	General	I strongly object to any coal mining activity in settled or suburban living areas.	The department thanks Win Willcox for their submission and notes the views expressed.
261	Ms Nicole Stitt	429	Notification and objection	Ms Stitt objects to clause 429.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land.

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					Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (Clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding any such mining lease application.
262	Ms Francesca Gallandt	Refer to Table 3			
263	Mr John Raymond	Refer to Table 3			
264	Mr Ken Loughran	Refer to Table 3			
265	Mr Ralph Richardson	420	Notification and objections – Affected persons	Mr Richardson opposes limiting the right to object to a mining lease (ML) application to directly affected landholders and local government removes a fundamental right of a democracy, for the people to express their concerns.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts

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					beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		239-266	Notification and objections – Site-specific environmental authorities	Mr Richardson opposes limiting the right to make a submission on (and appeal against) an environmental authority (EA) application to site-specific projects only also puts the interest of big business who can buy lobbying services above those of the voter.	The change to the *Environmental Protection Act 1994* reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. A 'low risk' mine is determined by the ability of the operator to meet eligibility criteria which are currently contained in schedule 3A of the Environmental Protection Regulation 2008. These criteria provide a clear definition of when a mine can make a standard or variation application. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that

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					environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. Standing for notifications and appeals under the *Environmental Protection Act 1994* has not been changed.
		423 and 424	Notification and objections – Land Court considerations	Mr Richardson opposes restricting the matters which the Land Court can consider for a ML objection can corrupt the outcome. All decisions should be made with the best possible information.	The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary jurisdictional overlap and providing more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts under the *Mineral Resources Act 1989*. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the *Mineral Resources Act 1989* to condition. This, in turn, increases the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Land Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the

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					Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.
		246	Notification and objections – EIS under *State Development and Public Works Organisation Act 1971*	Mr Richardson opposes removing the requirement to re-notify an EA application when an environmental impact statement has been conducted under the *State Development and Public Works Organisation Act 1971* (Qld) falls into the same category as above.	An EIS for a coordinated project under the *State Development and Public Works Organisation Act 1971* (SDPWO Act) includes assessment of significant environmental effects. Last year, the Coordinator General published a generic Preparing an environmental impact statement Guideline for proponents which states that: "The objective of the EIS is to ensure that all potential environmental, social and economic impacts of the project are identified and assessed; and that adverse impacts are avoided, minimised or sufficiently mitigated. Direct, indirect and cumulative impacts must be fully examined and addressed. The project should be based on sound environmental protection and management criteria." Consequently, it is the Queensland Government's view that requiring additional notification of the environmental authority application is unnecessary duplication of process.
266	Ms Ada Medak	Refer to Table 3			
267	Sandy Lumley	Refer to Table 3			
268	Ms Linda Welch	Refer to Table 3			
269	Mr Graham			Mr Graham Ambrey opposes the changes to the notification	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of

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	Ambrey			and objections framework for mining proposals.	operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the Environmental Protection Act or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.

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270	Mr Edward Allwood	N/A	General	This is not right the land owner should have rights you are selling Queensland out.	The department thanks Mr Edward Allwood for his submission and notes the views expressed.
271	Mr Max Travis	420	Notification and objections	It is my belief that no process should ever be put in place which excludes public input. Consequently I implore you to use your influence to ensure an objection mechanism is a component in this Bill on important matters of public interest.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have

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					been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
272	Sandy Stevenson	420	Notification and objections	Slowly and surely – and sometimes not so slowly – you are taking away the rights of the individual in this country. This is another one – and it's major. How dare a govt body that is elected to represent me, take away my right to decide what pollution is placed into my environment.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an

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					objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
273	Robin Anderson	420	Notification and objections	All people must have the right to object to mining leases. How many mines do we need? Can we have a limit on the holes we make in the ground?	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					Mineral Resources Act 1989 is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
274	Ms Margaret Andersen	Refer to Table 3			
275	Ms Linda O'Gorman	239-266	Notification and objections - Site-specific environmental authorities	Ms O'Gorman disagrees with limiting the right to make a submission on (and appeal against) an environmental authority (EA) application to site-specific projects only.	The change to the *Environmental Protection Act 1994* reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. A 'low risk' mine is determined by the ability of the operator to meet eligibility criteria which are currently contained in schedule 3A of the Environmental Protection Regulation 2008. These criteria provide a clear definition of when a mine can make a standard or variation application. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. Standing for notifications and appeals under the *Environmental Protection Act 1994* has not been changed.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
		420	Notification and objections – Affected persons	Ms O'Gorman disagrees with limiting the right to object to a mining lease (ML) application to directly affected landholders and local government. Ms O'Gorman supports "the current and long-established laws and processes which allow for any person or group to be entitled to object to any mining proposal (both ML and EA) in open court."	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					balanced approach to notification and objections between industry, and individual landholder and community interests.
		423	Notification and objections – Land Court considerations	Ms O'Gorman disagrees with restricting the matters which the Land Court can consider for a ML objection.	The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary jurisdictional overlap and providing more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts under the *Mineral Resources Act 1989*. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the *Mineral Resources Act 1989* to condition. This, in turn, increases the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Land Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act*

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					1994 in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.
		246	Notification and objections – EIS under *State Development and Public Works Organisation Act 1971*	Ms O'Gorman disagrees with removing the requirement to re-notify an EA application when an environmental impact statement has been conducted under the *State Development and Public Works Organisation Act 1971* (Qld).	An EIS for a coordinated project under the *State Development and Public Works Organisation Act 1971* (SDPWO Act) includes assessment of significant environmental effects. Last year, the Coordinator General published a generic Preparing an environmental impact statement Guideline for proponents which states that: "The objective of the EIS is to ensure that all potential environmental, social and economic impacts of the project are identified and assessed; and that adverse impacts are avoided, minimised or sufficiently mitigated. Direct, indirect and cumulative impacts must be fully examined and addressed. The project should be based on sound environmental protection and management criteria." Consequently, it is the Queensland Government's view that requiring additional notification of the environmental authority application is unnecessary duplication of process.
		429	Restricted land	Ms O'Gorman disagrees with removing restricted land status in situations where a miner is granted exclusive surface rights to access land (for example, open cut mines).	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (Clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					prior to deciding any such mining lease application.
276	Ms Deb Percy	Refer to Table 3			
277	Mr Aaron Fox		Notification and objections	This bill is using the representative democratic system to reduce the amount of representation allowed by law. This is a reckless and dangerous precedent.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application.

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
					The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
278	BJ Bosworth	Refer to Table 3			
279	Ms Theresa Martin	429	Restricted land – Mining Lease	Ms Martin strongly opposes removing restricted land status in situations where a miner is granted exclusive surface rights to access land.	The purpose of the changes in restricted land for situations such as open cut mines result from the fact that there are clearly some situations where mining and residential uses cannot coexist. It is not intended that the landholder will remain within the locality of the mine in the event that the Minister for Natural Resources and Mines is of the view that the mine should be approved with full surface rights and be expected to coexist without any restricted land. Rather in such situations restricted land would be extinguished and the landholder would be compensated for not only the loss of the right of consent but also to relocate from their existing residence. This is a significant change to the existing situation and in recognition of this, the Bill (Clause 424 amending section 271 of the *Mineral Resources Act 1989*) includes a requirement for the Minister to have particular regard for any disadvantage that may result to the owner or occupier of the area of restricted land prior to deciding any such mining lease application.
		423	Notification and objections – Land Court considerations	Ms Martin strongly opposes restricting the matters which the Land Court can consider for a ML objection.	The intent of the package of reforms is to appropriately balance the right to object on matters that directly relate to the granting of tenure, whilst reducing regulatory burden and delays by minimising unnecessary jurisdictional overlap and providing more specific and tenure related grounds on which objections can be lodged. The Bill proposes to adopt a risk based approach to notification and objections by providing for those persons directly impacted by the issuing of a mining lease on their rights to use and enjoy the land they own or lease or the services that they own and manage to object to the Land Court in regard to those direct impacts

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					under the *Mineral Resources Act 1989*. The breadth of the matters the Land Court can currently consider increases the complexity of the process, and has led to objections being lodged that are beyond the scope of the *Mineral Resources Act 1989* to condition. This, in turn, increases the cost to the applicant and the community. The review of the role of the Land Court identified that some considerations needed to be redrafted for modern drafting style; some should be omitted as they were more appropriately considered under another jurisdiction or by the Minister without the advice of the Court or should be omitted as they were unnecessarily broad and vague. The review also identified that additional considerations were required by the Land Court to ensure they could adequately deal with objections from local government and owners of the land over which access to a proposed mine is required. These have been added to the Court's jurisdiction. The changes in the Bill clearly identify the jurisdiction of the Land Court to ensure that the issues considered by the Court relate directly to the impacts of the tenure on those directly impacted by the proposed mining lease application. For those considerations that will no longer require consideration by the Court, the Minister for Mining must still have regard to those considerations when deciding whether to grant the lease. As the Land Court provides recommendations to the Minster and is not a decision-maker there is no change to the existing situation where it is the Minister that decides whether the proposed mine will proceed having regard for those considerations that have been removed from the Court's consideration. Additional rights to object are provided under the *Environmental Protection Act 1994* in regard to environmental impacts for site-specific applications for an environmental authority under which any individual or member of the community or community group on behalf of the community or sections of the community may object. As such the proposed legislation does seek to achieve a balance between individual and community interests.
		239-266	Notification and objections - Site-specific environmental	Ms Martin strongly opposes limiting the right to make a submission on (and appeal against) an environmental authority (EA) application to site-specific projects only.	The change to the *Environmental Protection Act 1994* reflects that the environmental authority application process has different levels of assessment according to the level of potential environmental risk associated with the environmentally relevant activity proposed. A 'low risk' mine is determined by the

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
			authorities		ability of the operator to meet eligibility criteria which are currently contained in schedule 3A of the *Environmental Protection Regulation 2008*. These criteria provide a clear definition of when a mine can make a standard or variation application. Where the environmentally relevant activity for a mining project does not meet the eligibility criteria, a site-specific application will be required for the environmental authority. For these mining projects, notification and objection rights are preserved under the *Environmental Protection Act 1994* or through an Environmental Impact Statement under either the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*. Generally, these site-specific applications for an environmental authority will be required for all large scale mining projects, including all coal mining proposals. This will mean that environmental authorities for mines which may have environmental impacts on people some distance from a proposed mine, such as coal mines, will always be publicly notified. Standing for notifications and appeals under the *Environmental Protection Act 1994* has not been changed.
		420	Notification and objections – Affected persons	Ms Martin strongly opposes limiting the right to object to a mining lease (ML) application to directly affected landholders and local government.	The policy intent of the notification and objection reforms is to provide for a notification and objection process that reflects the level of risk and scale of operations and that removes duplication, reduces project delays and lowers costs for industry in general. The department considers that this clause achieves the intended policy intent. The department is of the view that mining lease applications which require a standard or variation application for an environmental authority will not have fundamental impacts on communities. The eligibility criteria for such applications include: numbers of employees; area of disturbance; and locational considerations, etc. As such, the risk of offsite issues from such applications is considered to be low and therefore a reduced notification regime is proposed in the Bill. While there will no longer be a right for citizens, including landholders, community members, community groups and organisations, etc., to object to low risk mining leases, the public right to object has been retained for any application requiring a site-specific application for an environmental authority. The evidence is that these are the applications that the community is concerned about and which potentially have social, economic and environmental impacts beyond the boundary of the proposed lease. For these mining projects, notification

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					and objection rights are preserved under the *Environmental Protection Act* or through an Environmental Impact Statement. The type of mine that requires a site-specific environmental authority generally includes all large scale mining projects, including all coal mining proposals. The majority of mining leases in Queensland carry low environmental risk, and as such, a standard or variation application for an environmental authority will apply. The Bill also proposes that notification of mining lease applications under the *Mineral Resources Act 1989* is required for directly impacted landowners, occupiers, infrastructure providers and local governments. Landowners and local governments that are directly impacted will continue to be able to lodge an objection to the Land Court on matters that relate to the mining lease application. The cumulative quantitative and qualitative benefits of the model proposed have been considered against the current regulatory burden and have been determined to provide the greatest net benefit of the options available. As such the department is of the view that the proposed legislation achieves a balanced approach to notification and objections between industry, and individual landholder and community interests.
		246	Notification and objections – EIS under *State Development and Public Works Organisation Act 1971*	Ms Martin strongly opposes removing the requirement to re-notify an EA application when an environmental impact statement has been conducted under the *State Development and Public Works Organisation Act 1971* (Qld) falls into the same category.	An EIS for a coordinated project under the *State Development and Public Works Organisation Act 1971* (SDPWO Act) includes assessment of significant environmental effects. Last year, the Coordinator General published a generic Preparing an environmental impact statement Guideline for proponents which states that: "The objective of the EIS is to ensure that all potential environmental, social and economic impacts of the project are identified and assessed; and that adverse impacts are avoided, minimised or sufficiently mitigated. Direct, indirect and cumulative impacts must be fully examined and addressed. The project should be based on sound environmental protection and management criteria." Consequently, it is the Queensland Government's view that requiring additional notification of the environmental authority application is unnecessary duplication of process.
280	Sapphire Fish	Refer to			

Sub No.	Submitter	Clause	Section/initiative	Key Points	Departmental Response
		Table 3			
281	Mr Glen Carruthers	Refer to Table 3			
282	Ms Danica Krco	N/A	Small scale alluvial miners	Ms Danica Krco is urging the government to consider reducing all fees pertaining to small alluvial miners at Miclere. Ms Danica Krco further submits that the government should give relief to small alluvial gold mining entities at Miclere by not charging small miners the same as large mining entities.	The department notes the concerns expressed. However, they are outside the scope of the Bill.
283	The Uniting Church in Australia, Presbytery of the Downs	N/A	General	The submission calls for a moratorium on coal seam gas as detailed in the statements attached to the submission.	The department thanks the Uniting Church in Australia, Presbytery of the Downs for their submission and notes the views expressed.

Dissenting Reports

Ms Jackie Trad MP, Member for South Brisbane
Deputy Chair, Agriculture, Resources and Environment Committee

Dear Chair,

I write to lodge a dissenting report on the Agriculture, Resources and Environment Committee's (the Committee) report on the *Mineral and Energy Resources Common Provisions Bill 2014* (the Bill).

I have attached additional recommendations on behalf of the Opposition that should have been contained in this report. The fact that this report does not address the key concerns of submitters to the Committee shows that the Newman Government is incapable of listening to Queenslanders.

The Opposition is extremely concerned that the Newman Government is not listening to the concerns of the overwhelming majority of submissions to the Committee and does not support recommendation 1 of the Committee's report that the bill be passed with consideration of minor amendments. The fact that the Committee's report does not make recommendations about any of the substantive concerns raised by stakeholders is a complete failure of responsibility on the part of LNP Members.

I do not support the removal of public notification and objection rights on mining lease applications and environmental authorities, the amendments to remove principal stockyards, bores, artesian wells, dams and other artificial water storages from the 'restricted land' legislative framework or the watering down of prescribed distances to be inserted in a later regulation rather than legislation.

The Committee received many submissions from concerned stakeholders including at public hearings on 6 and 27 August in Brisbane, 19 August in Toowoomba and 20 August in Townsville and Mackay.

Mr George Houen of Landholder Services Australia Pty Ltd told the Toowoomba hearing that:

> *"I am a rural consultant with Landholder Services… This is a wrecking ball. It is a train wreck. It is an acid bath for the rights of the landholder. There will be a great increase in the level of conflict between landholders and miners."*

AgForce in their submission said that:

> *"The primary concerns with the proposed changes in the two discussion papers can be summarised as loss of rights to object in many circumstances, limited protection for non homestead property infrastructure and reduction in negotiating power (of producers) in general . The overall concern being that a reduction in existing rights will erode further any goodwill between the agriculture and resources sector and will not increase possibilities of co-existence."*

Shine Lawyers representing regional landowners said in their submission that:

> *"As an overall statement we would like to say that the amendments for discussion concern us greatly as they seek to very substantially alter long held principles and rights of landholders in Queensland with virtually no benefits flowing back to them from the proposal. The government has made and continues to make promises that the idea of the reforms is to harmonise the various pieces of legislation and that no*

landholders will be worse off unless they agreed to be. Unfortunately, the proposals do not live up to that promise but rather almost entirely make landholders worse off."

The Opposition strongly opposes the removal of public notification and objection rights on mining lease applications and environmental authority applications which is without any policy justification. As the report notes the Committee found no evidence of significant costs or vexatious use of objections to small scale mining applications. Mining resources are held by the crown on behalf of the people and nearby landowners and the broader community have a right to know about, and to object to mining projects in their State.

The Opposition will be detailing further and more detailed problems with this bill when it is debated in Parliament.

Yours sincerely

Jackie Trad MP

Member for South Brisbane

Attachment to the Member for South Brisbane's Dissenting Report

Recommendation

The committee recommends that the Mineral and Energy Resources (Common Provisions) Bill 2014 be passed with consideration of the amendments recommended in this report.

Recommendation

The committee recommends that the proposed amendments to notification and objection rights for mining lease tenure under the *Mineral Resources Act 1989,* be removed from the Bill, noting that the committee supports the retention of amendments removing notification and objection for environmental authority applications under the *Environmental Protection Act 1994*. The committee believes this will successfully achieve the government's objective of reducing red tape and duplication, whilst also balancing the interests of affected land holders and Queensland communities.

Recommendation

The committee recommends that the department amend the current definition for 'affected person'

To ensure that the following persons are provided notification and objection rights under the *Mineral Resources Act 1989:* Owners and occupiers of land sharing a Common boundary with the land/property over which the mining claim/lease applies (neighbours other than those defined for purposes of access land) and any other person who can demonstrate a direct link to water infrastructure which is shared in common with the land of the mining area or directly impacted by the resource activity.

Recommendation

The committee recommends that the government's Queensland Globe and Mines Globe initiative allow any interested user to know where exploration and resource authorities have been applied for, and the option to allow interested parties to be automatically notified if exploration licences are allocated or applied for in a particular area, as per the Productivity Commission's recommendation.

Recommendation

The committee recommends that the Bill be amended at clause 68(1)(a)(iii) as follows to allow for structures such as stockyards, dams, bores and other infrastructure important to a landholder's business or land management practices to be protected under restricted land provisions:

(iii)

A building, structure or property feature used, at the date the resource authority was granted, for a business or other purpose if it is reasonably considered that—

(A) The building, structure or property feature cannot be easily relocated

(B) the building, structure or property feature can not co---exist with authorised activities carried out under resource authorities, and

(C) the impact on the building, structure or property feature cannot be easily rehabilitated or remediated following the completion of the authorised activities carried out under resource authorities.

Recommendation

The committee recommends that the department undertake a review of prescribed distances

for restricted land in consultation with key stakeholders to ensure the regulated distances are appropriate to each category of resource activity and that they are consistent with agreed MQRA program principle of no disadvantage.

Recommendation

The committee recommends that the Bill be amended such that the prescribed distances for restricted land, consistent with those determined as part of the review recommended above,be stated in the legislation *or* be included as a schedule to the Common Provisions Act in order to provide certainty and clarity to landholders and resource companies.

Recommendation

The committee recommends that the department develop a practical and cost effective mechanism/process, other than the Land Court, that would be available to an owner, occupier or holder of a resource authority to seek a review or declaration of an area as restricted land.

Recommendation

The committee recommends that the provision allowing for an access right over land to be 'agreed orally' as stated at clause 47(1)(a) be removed from the Bill, to provide the level of transparency and

Security that only written agreements (e.g. exchange by letter, email or fax) can achieve for the purposes of land access agreements.

Recommendation

The committee recommends that the Bill be amended to provide for the making of only one land access code, consistent with the existing legislation and the objectives of the land access policy framework to provide a single and consistent approach across all resource activities and reduce red tape.

Recommendation

The committee recommends that a review of the Land Access Code be completed by the Land Access Implementation Committee, in consultation with key resource, agriculture and landholder

sectors, within 6---12 months of the commencement of the Common Provisions Act.

Recommendation

The committee recommends that the Bill be amended at clause 45(2) to reflect the requirement that an opt---out agreement must be entered using the approved form as follows:

(1) The election to opt out is an *opt---out agreement* and is invalid if it:
(a) is not made using the approved form; and

(b) does not comply with the prescribed requirements for the agreement.

The committee recommends that the department develop a standard/template 'opt---out agreement' form which:

--- is prescribed by regulation; and

--- includes a ***warning statement*** which includes, but is not limited to, ensuring the landowner has been advised of their right to negotiate a CCA, been provided a copy of the opt---out factsheet, is aware that the opt---out agreement is binding on future owners and successors and will be noted on their land title, and has been advised of the applicable cooling off period.

Recommendation

The committee recommends that the Bill be amended at clause 45 (1) to limit the circumstances when an opt---out agreement may be used to access agreements and low impact authorised activities, such as prescribed activities and advanced activities which are not site---specific

(or other criteria that meets the same objective consistent with drafting principles).

Recommendation

The committee recommends that the Bill be amended at clause 90 to require that (a) the resource authority holders give the registrar notice of entry notices, waivers and access agreements; (b) the registrar must record in the relevant register the existence of entry notices, waivers and access agreements.

Recommendation

The committee recommends that the Bill be amended at clause 90(3) to make it clear that, if a dispute arises over the end date of the agreement, resource authority holders, if required, will need to remove the particulars on the title within 28 days of resolution of the dispute.

Recommendation

The committee recommends that further consultation and consideration be given to the timing of the introduction of provisions relating to the overlapping tenure arrangements for coal and coal seam gas, in light of concerns expressed during the inquiry as to issues not resolved within the Bill.

Recommendation

The committee recommends that only an independent third party conduct ADR processes, and that an independent panel of expert ADR specialists be established to arbitrate dispute resolution processes recommendation 2.1 in the Land Access Committee Implementation Report be accepted and adopted.

Recommendation

The committee recommends that section 86(2)(a) be removed from the Bill, to remove the option of a departmental conference for ADR. (Department to have a continued role in information and education.)

Recommendation

The committee recommends that the Bill be amended to provide that reasonable costs incurred by land holders in negotiating an agreement are compensable by resource companies (with consideration of a capped amount), including where the resource company withdraws from the negotiations prior to finalising the agreement.

Recommendation

The committee recommends that all provisions relating to ADR be introduced in this Bill, including any legislative amendment determined necessary to establish clarity in the framework where a party does not agree to an ADR process.

Recommendation

The committee recommends that the consideration be given to amending clause 423 in the Bill in order to ensure that it describes the full list of matters that the Land Courts shall take into account and consider when making recommendations on hearings.

Recommendation

The committee recommends that the definition of:

'owner' be amended/expanded to include occupier *or* that throughout the Bill wherever owner is used in a singular, that the bill be amended to specify 'owner and occupier'.

'***occupier'*** be amended to clarify that an occupier may only be a person/entity that has a legal/contractual and/or registered right to occupy land or dwelling.

'place of worship' be reviewed/refer to Native Title Act to ensure that it adequately covers all Indigenous and non---Indigenous cultural and spiritual sites.

'residence' is sufficient to protect homesteads.

Recommendation

The committee recommends that the Bill be amended to remove clause 200. It is an inappropriate delegation to broadly provide for a regulation may be made about any matter of a savings, transitional or validating nature because it anticipates that the Bill may not make provision or enough provision. The committee notes the opportunity presented through concurrent existing legislation and an anticipated two (2) further Bills to address any unforeseen issues.

Mr Shane Knuth MP, Member for Dalrymple
Committee member, Agriculture, Resources and Environment Committee

I wish to dissent against the Agriculture, Resources and Environment Committee's ruling to support the Mineral and Energy Resources (Common Provisions) Bill 2014.

I believe this Bill is biased toward the mining giants while further removing landowners' rights.

My concerns regarding aspects of the Bill towards the restricted land can be conveyed by Mr Donny Harris of Donny Harris Lawyers, who has stated in the AREC public hearing in Townsville:

"The other concern with restricted land is the fact that the new definition removes what I would describe as some key infrastructure, particularly for graziers. The number one key infrastructure is water infrastructure. If you talk to any grazier or any farmer in fact, water is a key requirement for their enterprise. The other key infrastructure is the removal of the principal stockyards. Both these items are no longer going to be considered restricted land under the new definition so where does that leave landholders who were previously in a position where they could, for example, either negotiate make-good requirements for that principal infrastructure or at least negotiate a higher compensation value for the loss of that infrastructure."

I am deeply troubled about the removal of key infrastructure from the restricted land as the whole aspect of the management of a farm or grazing property is reliant on these key infrastructure components. Without them a property cannot operate.

As a committee member I am concerned about what has been pointed out under new section 260: *"…people's right to object to the issuing of a mining lease for a resource activity will be unduly restricted to 'affected persons', and that the definition of 'affected persons' has been further limited.*

"Further, low risk environmental activities/mining lease grants will not be subject to public notification. This will impact persons who live near a resource activity but who are deemed to be 'not directly affected' by its activities as well as the general public/local and wider communities who may not be aware that a resource activity for which there is a public interest being carried out."

The Bill removes all public notification and objection rights to land tenure decisions with only the impacted landholders having the right to object.

I am greatly concerned about opt-out agreements without any safeguards such as information and warning statements to ensure landowners are aware of the risks and implications of these agreements.

These are important issues that need to be addressed and it is disappointing that the committee has recommended that the Bill be passed without any safeguards.

Another concern is that, for example, if Ben Lomond Uranium Mine has a development application, landowners downstream, or the Charters Towers community, have no right to object even if uranium leaks into their water supply.

I also have great concerns for farmers in coal seam gas areas, whose rights have already been trampled. This Bill will further erode their rights and seriously affect their ability to manage their business.

Yours sincerely

Shane Knuth MP

Member for Dalrymple