Parliamentary Committees



Natural Resources and Other Legislation Amendment Bill 2019

Report No. 27, 56th Parliament
State Development, Natural Resources and Agricultural Industry Development Committee

April 2019

State Development, Natural Resources and Agricultural Industry Development Committee

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Contents

Abbreviations

APPEA	Australian Petroleum Production and Exploration Association Ltd
Bill	Natural Resources and Other Legislation Amendment Bill 2018
DNRME/the department	Department of Natural Resources, Mines and Energy
FOLR	Foreign Ownership of Land Register
Minister	Minister for Natural Resources, Mines and Energy
QLS	Queensland Law Society
QRC	Queensland Resources Council

Chair's foreword

This report presents the State Development, Natural Resources and Agricultural Industry Development Committee's examination of the Natural Resources and Other Legislation Amendment Bill 2019.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill and the Department of Natural Resources, Mines and Energy for their assistance during the inquiry. I also thank members of the committee, our Parliamentary Service staff and our committee secretariat.

I commend this report to the House.

Chris Whiting MP

Chair

Recommendations

The committee recommends the Natural Resources and Other Legislation Amendment Bill 2019 be passed.

The committee recommends the Member for Broadwater forward the proposed amendment to the *Integrated Resort Development Act 1987*, to allow a mortgagee in possession of the land to be liable for levies, to the Minister for State Development, Manufacturing, Infrastructure and Planning for consideration.

1 Introduction

1.1 Role of the committee

The State Development, Natural Resources and Agricultural Industry Development Committee (SDNRAIDC/committee) is a portfolio committee of the Legislative Assembly which commenced on 15 February 2018 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.[1]

The committee's areas of portfolio responsibility are:

- State Development, Manufacturing, Infrastructure and Planning
- Natural Resources, Mines and Energy, and
- Agricultural Industry Development and Fisheries.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles, and
- for subordinate legislation – its lawfulness.

The Natural Resources and Other Legislation Amendment Bill 2019 (Bill) was introduced into the Legislative Assembly and referred to the committee on 26 February 2019. The committee was required to report to the Legislative Assembly by 18 April 2019.

1.2 Inquiry process

On 4 March 2019, the committee invited stakeholders and subscribers to make written submissions on the Bill. Twelve submissions were received. These are listed at Appendix A.

The committee received a public briefing by the DNRME on 6 March 2019. A public hearing was held in Brisbane on 25 March 2019. Appendix B contains a list of witnesses who attended the public briefing and hearing.

On 28 March 2018, the committee received written advice from the department in response to matters raised in submissions.

The submissions, correspondence from the department, and the transcript of the briefing and hearing and other related evidence are available on the committee's webpage.[2]

1.3 Policy objectives of the Bill

The explanatory notes outline that the objectives of the Bill are to improve administrative efficiency and ensure regulatory frameworks within the Natural Resources, Mines and Energy portfolio remain effective and responsive, enhance the water compliance frameworks and implement measures to improve performance of the resources tenure management system.[3]

Specifically, the Bill will:

- amend the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991* to reduce regulatory burdens and improve administrative efficiency
- amend the *Aboriginal and Torres Strait Islander Land Holding Act 2013* to provide more efficient processes for the transmission of leases

1 *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

2 http://www.parliament.qld.gov.au/work-of-committees/committees/SDNRAIDC

3 Explanatory notes, p 1.

- remove the requirement to create and table an annual report on foreign ownership under the *Foreign Ownership of Land Register Act 1988*
- amend the *Land Act 1994* to provide new mechanisms to:
  - facilitate dispute resolution between leaseholders and sub lessees
  - ensure access to inaccessible State land
  - close roads; and
  - transfer certain administrative approvals from the Minister to the Chief Executive
- amend the *Land Title Act 1994* to facilitate operational improvements and streamline and clarify processes within land titles
- amend the *Surveyors Act 2003* and the Surveyors Regulation 2014 to improve operation of the Surveyors Board of Queensland by clarifying administrative arrangements and disciplinary processes
- amend the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004* to implement measures to continue to improve performance of the resources tenure management system and corrects minor errors
- amend the *Water Act 2000* to improve operational efficiency, strengthen compliance and enforcement provisions, ensure consistency with local government infrastructure charging notices, facilitate balanced gender representation on category 2 water boards, modernise the selection and appointment process for directors, reduce regulatory burdens and clarify the application of a number of provisions applying to category 1 and category 2 water boards, and
- amend the *Right to Information Act 2009* and the *Electricity Act 1994* to support the establishment of a new clean energy generation government owned corporation (CleanCo).[4]

To achieve its policy objectives the Bill will amend 29 Acts, including:

- *Aboriginal and Torres Strait Islander*
- *Land Holding Act 2013*
- *Aboriginal Land Act 1991*
- Aboriginal Land Regulation 2011
- *Electricity Act 1994*
- *Foreign Ownership of Land Register Act 1988*
- *Geothermal Energy Act 2010*
- *Greenhouse Gas Storage Act 2009*
- *Land Access Ombudsman Act 2017*
- *Land Act 1994*
- *Land and Other Legislation Amendment Act 2017*
- Land Regulation 2009
- *Land Title Act 1994*
- Land Title Regulation 2015
- *Land Valuation Act 2010*
- *Mineral Resources Act 1989*
- *Mineral and Energy Resources(Common Provisions) Act 2014*
- *Mineral and Energy Resources (Financial Provisioning) Act 2018*
- *Petroleum Act 1923*
- *Petroleum and Gas (Production and Safety) Act 2004*
- *Right to Information Act 2009*
- *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*
- *South-East Queensland Water (Restructuring) Act 2007*
- *Surveyors Act 2003*

[4] Explanatory notes, pp 1-2.

- Surveyors Regulation 2014
- *Torres Strait Islander Land Act 1991*
- Torres Strait Islander Land Regulation 2011
- *Valuers Registration Act 1992*
- *Water Act 2000 Water Supply (Safety and Reliability)Act 2008*

1.4 Government consultation on the Bill

The explanatory notes detail that in preparing the Bill, the department consulted with other agencies and relevant stakeholders in the community and industries. An overview of departmental consultation that occurred in relation to the Bill is set out in the explanatory notes.[5]

The explanatory notes report that consulted stakeholders were generally supportive of the Bill's amendments, the consultation process and the opportunity to make amendments to the policy outcomes and specific provisions of the Bill.[6]

The department conducted targeted industry consultation in relation to the amendments to the *Mineral Resources Act* and the *Petroleum and Gas (Production and Safety) Act*, and noted that the main issues arising from consultation on the draft Bill were concerns about work programs, the Minister's power to impose, vary or remove a condition of an exploration authority, and the transitional provisions for existing exploration permits. The explanatory notes state that the Bill has been amended to address these industry concerns.[7]

At the public hearing, QRC stated:

> *…we would like to take this opportunity to commend the hard work undertaken by the policy team within DNRME to get the tenure management changes to this point.*[8]

Similarly, at the public hearing, the Queensland Law Society (QLS) stated:

> *I note that the Queensland Law Society was consulted during the development of some aspects of the Bill and I would like to thank the government for the opportunity for consultation at that early stage of the legislative process.*[9]

Industry stakeholders also supported the Bill, stating:

> *Glencore is of the opinion that the Bill promotes many well considered reforms and is broadly supportive of its contents.*[10]

The committee notes that the government consultation on the Bill is ongoing.[11]

1.4.1 Stakeholder views

Overall, submitters were generally supportive of the Bill. However, one significant issue raised by submitters was the broad and complex nature of the Bill and the timeframe given to stakeholders to consider the Bill.

5 Explanatory notes, pp 23-26.

6 Explanatory notes, pp 23-26.

7 Explanatory notes, p 24.

8 Ms Hansen, QRC, Public hearing transcript, Brisbane, 25 March 2019, p 2.

9 Mr Potts, QLS, Public hearing transcript, Brisbane, 25 March 2019, p 12.

10 Glencore, Submission 12, p 1.

11 Department of Natural Resources, Mines and Energy, correspondence dated 28 March 2019, p 7.

The QLS stated that it had limited its comments to certain aspects of the Bill due to the size of the Bill, stating:

> *There may be other unintended consequences which we have not been able to identify due to time constraints.*[12]

At the public hearing, the QRC stated:

> *I think the strength of consultation around some of the difficult issues gives stakeholders some confidence, but in an ideal world you would not be trying to write a definitive submission on this Bill in 15 business days.*[13]

The committee notes the stakeholder comments regarding a longer period of consideration by stakeholders and the committee.

1.5 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend that the Bill be passed.

After examination of the Bill, including consideration of the policy objectives to be implemented, stakeholders' views and department advice, the committee recommends that the Bill be passed.

Recommendation 1

The committee recommends the Natural Resources and Other Legislation Amendment Bill 2019 be passed.

12 QLS, submission 11, p 1.

13 Mr Barger, QRC, Public hearing transcript, Brisbane, 25 March 2019, p 4.

2 Examination of the Bill

This section of the report outlines the committee's examination of the Bill.

2.1 Access to state land

Under the *Land Act 1994,* the administering agency is responsible for undertaking a range of authorised activities on state land such as management and compliance activities. The explanatory notes to the Bill state that managing some areas of state land can be problematic where the land does not have dedicated access or the dedicated access is difficult or unsafe to traverse.[14]

Where it is not possible to directly access these parcels of state land, access via adjacent or adjoining parcels of land needs to be sought by negotiating voluntary access with the owner of the neighbouring or adjacent land.

The Bill introduces new powers into Chapter 7 of the *Land Act 1994* to provide a new power of entry for authorised officers to enter adjacent land next to difficult to access state land to undertake management and compliance activities.[15]

The submission from AgForce raised concerns that the new power of entry represents a diminution of property rights. AgForce also noted that the amendments do not provide any arrangements for compensation to be paid to the landholders. AgForce suggested that the Bill should consider a budget allocation for either surveying easements on affected land or paying adjoining neighbours for land access.[16]

The department responded, noting that in the majority of cases, adjoining landowners are very accommodating and will provide access across their land. The department stated that it is anticipated that these powers would only need to be used as a last resort in limited circumstances where access is refused and there is no other practical or safe access route.[17]

In relation to the concerns raised by AgForce, the department stated:

> *Typically, accessing adjacent land under these new powers would involve infrequent and time-bound access via existing tracks or roads on a property. If damage occurs as a result of the access, then the landowner is able to seek recompense in the form of remedial action to fix any damage that might have occurred.*
>
> *A number of safeguards are provided as part of the new provisions to balance the rights of individual landholders with the obligations of the Government to effectively administer and manage state land. For example, the new powers would only be exercised in limited circumstances where:*
>
> - *access is required to undertake authorised activities for a particular purpose;*
> - *there is no safe or practical alternate access; and*
> - *voluntary agreement for access has been refused.*
>
> *Further safeguards are provided through notice provisions, the requirement for authorised officers to take all reasonable steps to minimise damage or inconvenience, and through make good provisions providing for remedial action if damage does occur as a result of the access*[18]

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14 Explanatory notes p 4.

15 Explanatory notes p 4.

16 AgForce Queensland, submission 6, p 4.

17 Department of Natural Resources, Mines and Energy, correspondence dated 28 March 2019, p 8.

18 Department of Natural Resources, Mines and Energy, correspondence dated 28 March 2019, pp 8-9.

Further concerns were raised by AgForce in relation to the powers of the Queensland Herbarium and the spread of weeds between properties, stating:

> *It follows then that this Bill breaches fundamental legislative principles by providing the chief executive with powers to authorise access with insufficient regard to the rights and liberties of landholders. For example, current issues with the Queensland Herbarium involve authorised persons entering private landholdings, collecting information while there and passing this on to staff administering the* Vegetation Management Act 1999 *and the* Natural Conservation Act 1992*. An incident threat is that landholders who allow access to authorised government staff are at risk of having their properties included in databases triggering legal implications and possible compliance costs. The issue of trust between landholders and staff or authorised persons by Queensland Government, has longer term ramifications on effective and sustainable management of land. Supplying the chief executive with increased powers to access freehold and leasehold land without compensation, further erodes this trust.*[19]

Following the public hearing, Agforce provided further information to the committee, stating:

> *There are also risks associated with weed seed spread arising from maintenance of utility corridors near Bauple, roadside slashing contractors have slashed through seeding giant rat's tail grass. It is thought that the sticky seeds have moved further along the roadside and into private properties adjoining the weed.*[20]

While the Queensland Law Society did not oppose the amendment in relation to land access, it strongly supported the intention outlined in the explanatory notes that the 'administering agency will develop the appropriate policies, procedures and training to ensure that all powers are exercised lawfully and appropriately.'[21]

In response to this, the department stated:

> *The department thanks the QLS for its recommendations in relation to issues to be addressed in policies and guidelines. These matters will be considered as the department prepares materials to support authorised officers exercise this power of entry in a lawful and appropriate manner.*[22]

Committee comment

At the public briefing on the Bill the committee asked the department to provide further detail about the arrangements for land access. The department advised that the powers of entry would only be used as a final effort, stating:

> *Before an authorised person could enter that intervening land they must attempt to negotiate entry by consent. It is only in those situations where consent is not granted that this power could be utilised to enter that land.*[23]

The committee notes that the department will consider the recommendations of the QLS when preparing materials to support the exercise of the new power of entry.

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19 AgForce Queensland, submission 6, p 4.

20 AgForce, correspondence dated 3 April 2019, p 2.

21 QLS, submission 11, p 4.

22 Department of Natural Resources, Mines and Energy, correspondence dated 28 March 2019, pp 9 – 10.

23 Mr Hinrichsen, DNRME, Public hearing transcript, Brisbane, 25 March 2019, p 18.

2.2 Foreign ownership of land

The Bill contains an amendment to omit the requirement for the preparation of an annual report on the administration of the *Foreign Ownership of Land Register Act 1988*. The explanatory notes state that this requirement is unnecessary as the Commonwealth Government now publishes an annual report on foreign ownership of agricultural land.[24]

AgForce opposed this amendment, noting that without the requirement to provide an annual report, it is unclear how the Minister will inform the Legislative Assembly and the Queensland public about investment trends over time.[25]

At the public hearing, AgForce stated:

> *The Bill seeks to remove the requirement to create and table an annual report on foreign ownership under the* Foreign Ownership of Land Register Act 1988*. To be clear, given the benefits that have flowed from foreign investment, AgForce supports commercially motivated foreign investment in broadacre agriculture where it is aligned with Australia's national interests. Transparency is key to securing community confidence about this investment, so AgForce supports appropriate government oversight of this investment without reducing the attractiveness of Australia as an investment destination. Whilst supportive of streamlined reporting, the removal of duplication and reducing the statute book, as identified by the Law Society, we do not currently view the high-level Commonwealth's foreign investment report as a like-for-like replacement for what is in the state report. No estimate of cost savings to government was provided in the explanatory notes.*[26]

In contrast, QLS supported this amendment, noting that it simplifies and streamlines the statute book.[27]

In its response to submissions, the department acknowledged the value AgForce puts on the Foreign Ownership of Land Register (FOLR) report for informing is members, stating:

> *Even where the requirement to table the annual FOLR report is removed, the Registrar of Titles will continue to collect foreign ownership data.*
>
> *The Foreign Ownership of Land Register can be searched by a member of the public or an organisation upon payment of a regulated search fee…..*
>
> *…The Queensland public, whether an individual or an organisation, will continue to be able to search the register, on payment of the regulated fee.*[28]

The committee was particularly interested in how the department had considered the value of the FOLR report to stakeholders, such as AgForce. At the public hearing, the department stated:

> *The data is still going to be collected. If there is an emergent need for that data then ad hoc reporting can still be generated if the Minister of the day or the Parliament were seeking such information. It is still going to be recorded by the registrar. With the removal of section 16 of that Act, there will not be a requirement for an annual report to be prepared and tabled.*[29]

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24 Explanatory notes, p 3.

25 AgForce Queensland, submission 6, p 3.

26 Mr Guerin, AgForce, Public hearing transcript, Brisbane, 25 March 2019, p 7.

27 QLS, submission 11, p 2; QLS correspondence dated 3 April 2019.

28 Department of Natural Resources, Mines and Energy, correspondence dated 28 March 2019, p 4.

29 Mr Hinrichsen, DNRME, Public hearing transcript, Brisbane, 25 March 2019, p 21.

At the public hearing, when asked about the advantage of a publicly available report as opposed to an individual or entity having to proactively search for the information, AgForce stated:

> *….I think the advantage to date has been that we have had a consistent report coming out, so it has enabled us to make comparisons across time on investment levels and enabled everybody to be speaking the same language, if you like, around the information that we have at a state level in terms of investment. If you provide us with raw data without the analysis and the assessment that goes with it, then you run the risk of people talking about different things. As we have seen between Commonwealth and state reporting, there is already some variation in how definitions are applied. Having a single report that is consistent which everybody works to has advantages. Returning to the idea of informed debate, we want people to be talking about the same thing rather than getting confused and disagreements arising because of it.*[30]

Committee comment

The committee acknowledges that DNRME consulted widely with stakeholders during the development of the Bill. The committee notes the concern raised by AgForce, that it may be unclear how foreign investment trends will now be reported. However, the committee also notes the reassurance given by the department that this information will still be collected, reported on when necessary and that this information will still be available to the Queensland public.

The committee notes that currently the fee for a simple search on the foreign ownership of land register is $19.45. The fee for more complex searches varies. The fee where no additional programming is required is $121.90. For searches that require additional programming, the fee is $340.30 per hour or part thereof.

The committee acknowledges that the DNRME argues that the amendments to the *Foreign Ownership of Land Register Act* were not proposed as a government cost saving measure.[31]

2.3 Category 2 water boards

The Bill introduces several amendments to the *Water Act 2000*. The explanatory notes state that these amendments modernise and clarify provisions in relation to the appointment of directors to the boards of category 1 and category 2 water boards. Substantive changes apply to category 2 water boards only.[32]

At the public briefing, the department stated:

> *Amendments to the* Water Act *in relation to water authority boards will encourage balanced gender representation, which is in line with the Queensland government's Women on Boards initiative. Currently, only around 10 per cent of category 2 water board directors are female. Proposed amendments will address this imbalance by requiring that the board have regard to providing balanced gender representation when seeing suitable candidates for the office of director. Candidates must also have appropriate skills, knowledge and experience for the position of director of a water authority board. This approach is in line with other governance models for statutory board processes in Queensland. The changes will afford ratepayers flexibility in their approach in seeking suitable candidates and clarify that the Minister is the decision-maker for appointment of a director to a category 2 water authority board.*[33]

30 Dr Miller, AgForce, Public hearing transcript, Brisbane, 25 March 2019, p 11.

31 Department of Natural Resources, Mines and Energy, correspondence dated 28 March 2019, p 4.

32 Explanatory notes, p 113.

33 Mr Hinrichsen, DNRME, Public briefing transcript, Brisbane, 6 March 2019, p 3.

The explanatory notes state that the department conducted stakeholder engagement sessions in November 2018 and there was an opportunity for feedback via a formal submission process. The explanatory notes further state that the category 2 water board amendments, although not consulted on publicly, consider the recent feedback received from stakeholders.[34]

Some submitters were opposed to the amendments. In particular, Roadvale Water Board submitted that the new requirements around the selection process for the board of directors would lead to increased board costs and less service delivery.[35]

Further concerns were raised at the new powers of the Minister to appoint directors of category 2 water boards. The submission from Ms Kesteven and Mr Monsour did not support this amendment, stating:

> *No water board can contain all the skills required to address every issue it may face. However, the ratepayers from Roadvale have shown the capacity, using an electoral process, on two separate occasions in the last 30 years to elect new Directors who considerably improved the service when its board was found to be ineffective. The proposed increase in Ministerial power to select 4 from 6 nominees and to divert Board resources into a selection criteria process and candidate location will shift focus from effective water delivery. Over the longer term, it may cost the Government more to manage the facility but what it certain is, it will cost ratepayers more.*[36]

The department noted the concern of the Roadvale Water Board, stating:

> *The Bill does not change the existing process of election or nomination. The amendments require the board of a category 2 water authority to seek suitable candidates, including by asking the authority's ratepayers or another entity to elect or nominate suitable candidates. For example, a local government or representative industry group may nominate a suitable candidate. The board is then required to give the Minister the names of suitable candidates.*
>
> *A suitable candidate is a person who is appropriately qualified, which means a person who has the qualifications, experience or standing appropriate to perform the functions of the office and is not disqualified from being appointed as a director under one of the criterion listed under the* Water Act.*[37]*

The Bill also introduces amendments to facilitate gender equity on category 2 water authority boards.[38] Glamorgan Vale Water Board suggested that this amendment be extended to include reference to balanced gender, multicultural and youth representation.[39]

In its response to submissions, the department noted it welcomes this suggestion, stating:

> *When seeking suitable candidates to put forward to the Minister, boards are free to also consider providing for multicultural and youth representation.*[40]

Committee comment

The committee acknowledges the concerns raised by submitters, however, the committee is satisfied with the department response and supports the amendments in relation to the appointment of directors to water authority boards.

34 Explanatory notes, p 26.

35 Roadvale Water Board, submission 1, p 4.

36 Ms Kesteven and Mr Monsour, submission 2, p 1.

37 Department of Natural Resources, Mines and Energy, correspondence dated 28 March 2019, p 26.

38 Explanatory notes, p 8.

39 Glamorgan Vale Water Board, submission 5, pp 1-2.

40 Department of Natural Resources, Mines and Energy, correspondence dated 28 March 2019, p 29.

2.4 Exploration permits - capped terms and relinquishment

2.4.1 Capped terms

The Bill implements a new framework in the *Mineral Resources Act 1989* for time limits to exploration permits for coal and mineral proponents. There is currently no time limit on the amount of times an exploration permit can be renewed. The Bill caps the overall life of an exploration permit to 15 years, with an additional 3 years in exceptional circumstances.[41]

The QRC noted concern that this is a significant change for industry and will mean that many companies will have to change their existing project plans.[42]

In its submission, QRC noted an outstanding issue in relation to capped terms and lock-out provisions. Currently, where there is overlapping tenure, one party can be effectively locked-out of the tenure (unable to conduct activities to progress their exploration program) potentially for more than 10 years. The introduction of capped terms could mean that tenures may expire before the proponent has access to the land. The QRC has noted that the department is examining this scenario but requested that this issue is prioritised to ensure that parties are not unintentionally disadvantaged.[43]

At the public hearing, the committee explored this issue further with the QRC. The QRC advised the committee that except for the issue with overlapping tenure, QRC members are broadly accepting of the capped terms on exploration permits.[44]

The QRC noted that the issue with overlapping tenure is not necessarily a pressing one, stating:

> *The issue with capped terms creates a real problem…..but the department is alive to that issue and is thinking about how we can solve it. They have put in a transitional for capped terms, which is that any tenure that is current, no matter how old it is – it could be a tenure that is already 13 years old – will have another 10 years from when this Bill is current. We will have a little bit of time at least to work through that issue.*[45]

2.4.2 Relinquishment

DNRME guidelines state that a relinquishment is a reduction in area of an exploration resource authority. Specifically, it is an area of land which is returned to the state by the resource authority.[46] Under the *Mineral Resources Act 1989*, it is a condition that each resource authority holder relinquish a portion of the resource authority area either during the resource authority term or before renewal.[47]

The committee examined the relinquishment issues at the public hearing. The QRC explained:

> *The main issue QRC has, I think, is the relinquishment transition. As part of your tenure you have to drop certain amounts of land at certain times. For existing tenures that can be a bit complicated. Our current system is 40 per cent at year 3 and then 50 per cent at year 5. That is for mineral and coal, but the transitional is going to be 50 per cent at year 5. It is just proving very complex as to how to transition tenures from that system to this system and how to acknowledge existing relinquishment, deferred relinquishment or things like that and put it into the new system so that people are not having to adhere to more strict requirements or be quite*

41 Explanatory notes, p 92.

42 QRC, submission 3, p 2; QRC correspondence dated 3 April 2019.

43 QRC, submission 3, p 2.

44 Ms Hansen, QRC, Public hearing transcript, Brisbane, 25 March 2019, p 2.

45 Ms Hansen, QRC, Public hearing transcript, Brisbane, 25 March 2019, p 4.

46 DNRME, Relinquishment Guide, December 2018.

47 *Mineral Resources Act 1989*, s 139.

disadvantaged by the transition, particularly given that now there is a cliff face for the term and there is also a restriction on the ability to apply for variations for your tenure.[48]

This concern was also raised by Glencore.[49]

The QRC noted that the Bill allows exploration permit areas converted to mineral development licenses or mining leases to count towards relinquishment requirements. The QRC noted that it understands that the DNRME intended for this outcome to be replicated in the *Petroleum and Gas Act* but such provisions have not been provided as part of this Bill. The QRC states it will have separate conversations with the DNRME about including these provisions in another omnibus Bill.[50] In its response to submissions, the department noted that it had agreed to investigate this issue further.[51]

The department stated:

The intent of the Bill is to encourage exploration through the relinquishment provisions by either returning permit areas to the state or moving these areas to a higher form of tenure—a mineral development licence or a mining lease. Therefore, areas of the permit that have become a mineral development licence or a mining lease will be counted towards the area required for relinquishment.[52]

Committee comment

The committee is satisfied with the department's undertaking to review the transitional provisions for relinquishment, and that this matter will be resolved to the satisfaction of all parties.[53]

2.5 Ministerial powers

The Bill inserts a new section into the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004* which provides that a Minister be given the power to impose, vary or remove a condition of an exploration authority without application by the holder. The explanatory notes state that this power may be used without notice where a variation of conditions is required due to an exceptional event, which includes natural disaster, global financial crises and other industry wide events (the department's operational policy provides further information on exceptional events).[54]

The explanatory notes explain the reason for this amendment:

For example, the Minister may change a work program condition to suspend or defer all exploration activities for a period due to a weather event. This allows the Minister to deal with large numbers of exploration permits, rather than requiring all holders impacted to individually apply to amend the conditions that are impacted by exceptional events, thus avoiding an administrative burden or cost to either industry or the government.[55]

Some stakeholders raised issues with the term 'exceptional event' which is to be inserted into the *Mineral Resources Act* and the *Petroleum and Gas Act*. For example, the QLS argued:

QLS considers the proposed definition to be relatively broad, and we suggest that the insertion of examples giving a description of what circumstances might constitute an exceptional event will assist to clarify the intended parameters of an exercise of this power.[56]

48 Ms Hansen, QRC, Public hearing transcript, Brisbane, 25 March 2019, p 2.

49 Glencore, submission 12, p 3.

50 QRC, submission 3, pp 2-3.

51 Department of Natural Resources, Mines and Energy, correspondence dated 28 March 2019, p 13.

52 Department of Natural Resources, Mines and Energy, correspondence dated 28 March 2019, p 13.

53 Department of Natural Resources, Mines and Energy, correspondence dated 28 March 2019, p 13.

54 Explanatory notes, p 25.

55 Explanatory notes, p 95.

56 QLS, submission 11, p 2.

Similarly, at the public hearing, the QRC stated:

> *In terms of the exceptional events, there is now a ministerial power where he can impose, vary or remove conditions into circumstances in exceptional events or where there is a policy, I think. At the moment the policy is called exceptional events but the Bill references exceptional circumstances. It is things that are outside of the proponent's control such as weather events, global financial crises or things like that. Originally that power was very broad and it was not conditioned, with the Minister being able to use it only in exceptional events. The Minister could use it whenever he thought it appropriate. That did make some of our members a little nervous. As long as we can work with the department on what exceptional circumstances or exceptional events look like, the QRC accepts that section.*[57]

The Australian Petroleum Production and Exploration Association Limited (APPEA), welcomed the changed made to the Bill to address industry concerns regarding the new ministerial powers. APPEA noted that the power improves certainty for industry and allows appropriate intervention in force majeure situations.[58]

The QLS raised a further concern in regard to the principles of natural justice at the public hearing, stating:

> *What is of particular concern with this proposal is that the holder is not given the right to be heard in respect of the exceptional event of the proposed change. Further, the proposal does not afford the holder a formal right of appeal in respect of the Minister's decision. QLS is concerned that this does not adhere to principles of natural justice, in that the holder has no capacity to challenge the decision within the bounds of the legislation and is instead forced to commence the statutory review process in the* Judicial Review Act 1991*, requiring an application to the Supreme Court with associated costs and delay affecting both the applicant and the Minister as respondent.*[59]

The committee was particularly interested in the appeal rights available with this amendment and scrutinised the department further on this issue at the public hearing. The department explained:

> *There is no appeal right in the legislation but there is judicial review which is open to anyone who feels aggrieved by the decision. That is how the* Judicial Review Act *works. If you feel aggrieved by a decision, then you make an application. We have not included necessarily a natural justice process because of the kind of urgent nature of these events. Often there is a need to do something really quickly. Also, the intention is to actually have a positive impact on holders. There is no intention to adversely impact on holders. It is about being able to address a particular emerging issue which is an emergent issue and being able to deal with that quickly. That is the reason. Because it is a positive change, we do not see that there is going to be anyone who is going to be aggrieved by it and therefore there is no natural justice in that.*[60]

Committee comment

The committee notes that this amendment is generally supported, provided that the department clarifies what an exceptional event may look like. The committee also notes the statement in the explanatory notes that the power is intended to be used to the authority holder's benefit, to reduce or delay work program requirements or relinquishment requirements.[61] Therefore, the committee is satisfied with the amendments in relation to these matters.

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57 Ms Hansen, QRC, Public hearing transcript, Brisbane, 25 March 2019, p 3.

58 Australian Petroleum Production & Exploration Association Ltd, submission 9, pp 1-2.

59 QLS, submission 11, pp 1-2.

60 Ms Cooper, DNRME, Public hearing transcript, Brisbane, 25 March 2019, p 19.

61 Explanatory notes, p 21.

2.6 Mine rehabilitation activity and mine remediation activity

The Bill inserts clauses 213, 214 and 215, which relate to abandoned mines provisions, in the *Mineral and Energy Resources (Financial Provisioning) Act 2018,* to replace the term 'rehabilitation with 'remediation'.[62]

Some submitters raised concerns in regard to clauses 213, 214 and 215. The Environmental Defender's Office Qld argued that the proposed amendments would weaken obligations on proponents to restore land after mining activity:[63]

> *Under the* Environmental Protection Act 1994 (Qld) *(EP Act) 'remediate, contaminated land, means— (a) rehabilitate the land; or (b) restore the land; or (c) take other action to prevent or minimise serious environmental harm being caused by the hazardous contaminant contaminating the land' per schedule 4. This is a broad definition open to subjective interpretation which can result in many different potential outcomes as to the standard expected for a site.*
>
> *Rehabilitation is a concept under the EP Act and the new* Mineral and Energy Resources (Financial Provisioning) Act 2018 (Qld) *which goes several steps further in that it supports the rebuilding of natural or agricultural systems to the point that these systems can sustain a variety of land uses. Remediation is simply a first step in the rehabilitation process in that it controls pollution. Remediated, as opposed to rehabilitated, areas can remain un-able to sustain post mining land uses.*[64]

WWF - Australia argued that they did not support the amendments as:

- *Rehabilitation is the action of restoring something that has been damaged to its former condition, whereas remediation is the process of improving or correcting a situation that is dangerous. Therefore, only requiring abandoned mine sites to be remediated means that just dangerous things will be addressed rather than the current requirement for them to be restored to a pre-mining condition*
- *As they will no longer need to be rehabilitated, it's unlikely that abandoned mine sites that are only remediated will ever sustain productive post mining land uses*
- *As they are unlikely to ever sustain productive post mining land uses, abandoned mine sites that are just remediated will need to be continually maintained at considerable expense by Queensland taxpayers*
- *The proposed amendments pre-empt the outcomes of the Abandoned Mines Program review, which is currently underway*
- *As the current program tacks the appropriate ambition needed to deal effectively with the risk to the State from abandoned mines, downgrading the requirement from 'rehabilitation' to 'remediation' will lock in an inadequate level of commitment and response to addressing the numerous risks associated with the multitudes of abandoned and legacy mines across Queensland.*[65]

62 WWF – Australia, submission 4, p 2.

63 EDO Qld., submission 7, p 1.

64 EDO Qld, submission 7, p 1.

65 WWF – Australia, submission 4, p 2.

Mr Barger from QRC noted that the terms are differentiated because of the different context in relation to end of production, abandoned or legacy mines:

> *… is a useful differentiation where you are dealing with a historic mine site where the proponent has handed it back to the state and the state has accepted it so the state has responsibility for managing that site. That is quite different from an existing operation where a proponent has a requirement to rehabilitate the site to an agreed land use.*[66]

Ms Cooper from DNRME further clarified this distinction:

> *The intention behind these changes is quite administrative in a lot of ways. It is using different terminology to be able to distinguish between rehabilitation, which is the work that is done by resource holders in bringing back land to a rehabilitated state, as opposed to the work that is done by the department's abandoned mines unit and the activities that they are permitted under the* Mineral Resources Act *as well as the* Petroleum and Gas (Production and Safety) Act *to make sure that abandoned mines that come into the state's purview are safe, secure and stable.*
>
> *The actual activities that are covered remain exactly the same. The amendments to rehabilitation activity and remediation activity are to better reflect the on-ground activities that are currently permitted. Those types of activities include being able to investigate the condition of the land. In the case of the* Mineral Resources Act*, to cap a mine shaft, remove or make safe structures or equipment, clean up pollution that is remaining on the abandoned mine or near it, repair erosion and prevent further erosion and other similar activities... The idea is to make that differentiation between what the department does when a mine becomes abandoned versus resource holders' obligations and activities to be able to rehabilitate a site.*[67]

Committee comment

The committee is satisfied with the information provided by DNRME in regard to clauses 213, 214 and 215 of the Bill and supports the need to make the necessary administrative changes.

2.7 Other issues

A submission was received from Mr David Crisafulli MP, Member for Broadwater. This submission proposed an amendment to the *Integrated Resort Development Act 1987*, to allow a mortgagee in possession of the land liable for levies. Mr Crisafulli states that this would bring the Act into line with the rights of other bodies corporate to successfully recover levies when a strata title has been repossessed.[68]

At the public hearing, the department noted:

> *Submission No. 10, which related to the* Integrated Resort Development Act*, is not legislation which is covered by this Bill. It is not legislation that is administered by the Department of Natural Resources, Mines and Energy. It is in fact administered by the Department of State Development, Manufacturing, Infrastructure and Planning.*[69]

Committee comment

The committee notes that this matter falls outside the provisions of this Bill and that responsibility for the *Integrated Resort Development Act* lies with the Department of State Development, Manufacturing, Infrastructure and Planning.

66 Mr Barger, QRC, Public hearing transcript, Brisbane, 25 March 2019, p 4.

67 Ms Cooper, DNRME, Public hearing transcript, Brisbane, 25 March 2019, p 17.

68 Mr Crisafulli MP, submission 10, p 4.

69 Mr Hinrichsen, DNRME, Public hearing transcript, Brisbane, 25 March 2019, p 17.

Recommendation 2

The committee recommends the Member for Broadwater forward the proposed amendment to the *Integrated Resort Development Act 1987*, to allow a mortgagee in possession of the land to be liable for levies, to the Minister for State Development, Manufacturing, Infrastructure and Planning for consideration.

3 Compliance with the *Legislative Standards Act 1992*

3.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) 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 has examined the application of the fundamental legislative principles to the Bill. The committee brings the following to the attention of the Legislative Assembly in relation to clauses 11, 12, 16, 19, 40, 41, 45, 94, 260, 267, 279 and 335.

The Bill also includes eight offence provisions which are set out at Appendix C.

3.1.1 Rights and liberties of individuals

Section 4(2)(a) of the LSA requires that legislation has sufficient regard to the rights and liberties of individuals.

3.1.1.1 Clauses 45, 40, 335

Land Act – entering land for access to State land

Clause 45 introduces new section 431ZD of the *Land Act 1994* (the Land Act). This provision allows authorised officers to enter or traverse a person's land that is adjacent to state land in order to carry out authorised activities on state land. The officer may enter the land without consent or a warrant.

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation confers 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.

Entering a person's land without consent, would affect the land owner's rights and liberties and their free enjoyment of that land.

The explanatory notes acknowledge this breach of fundamental legislative principle and provide the following justification:

> *The new power to enter adjacent land balances the rights of individual landholders with the obligations of the Government to effectively administer and manage state land. The impact of the potential breach is further mitigated through notice requirements whereby the authorised officer is required to give adequate prior notice to the owner or occupier of the adjacent land about the entry and its purpose.*[70]

Further, the explanatory notes refer to the safeguards and protections for land owners:

> *The amendment includes additional safeguards such as requiring the authorised person to take all reasonable steps to ensure minimal or no damage or inconvenience is incurred while undertaking the authorised activity. Furthermore, if the owner or occupier believes the authorised person has caused or contributed to damage to the adjacent land or something on the land, the amendments include make good provisions that enable the owner or occupier to enter into a remediation agreement with the chief executive to undertake remediation action to make good any damage. The power does not permit entry to residential structures under any circumstances.*[71]

[70] Explanatory notes, p 19.

[71] Explanatory notes, p 19.

It might be considered that there are a number of safeguards in place, including:

- reasonable attempt to give notice under new section 431ZC
- duty to avoid inconvenience and minimise damage under new section 431ZE
- giving notice of damage under new section 431ZF
- the owner may give notice of damage under new section 431ZG; and
- an opportunity to enter into a remediation agreement.

Committee comment

The department has noted that it will continue to work with stakeholders to develop policies and procedures to ensure powers of entry are lawful and appropriate. Given this undertaking, the committee considers that there are sufficient protections in place to ensure this potential breach of fundamental legislative principle is justified.

Land Act – road closures

Clause 40 amends section 100 of the Land Act. This amendment relates to road closure amendments and may reduce the number of landholders entitled to a notice of road closure. The provision defines what an appropriate enquiry is in relation to a road closure application and to that extent, the requirements of giving notice for that road closure.

A land holder's rights and liberties might be affected when a closure occurs on a road near their land, and they are not given notice.

Committee comment

The explanatory notes provide the following explanation of the breach of fundamental legislative principle:

> *The Bill clarifies the intent of the notification provision and reflects current operational practice by defining appropriate enquiries as, at a minimum, notifying adjoining landholders to the area of road in question, including properties immediately adjoining those landholders' and the road, and land for which the road the subject of the application provides a dedicated access that may be affected.*[72]

The explanatory notes state that the current provision could be interpreted to mean that every land owner adjoining an affected road would require notice, even if the road was many kilometres in length. This, it is claimed, is not the intention of the provision.[73]

This amendment reduces the notice requirement to notifying property owners or lessees immediately adjoining the area of road in question and where a dedicated access that may be affected. The public notice requirements still remain.

The committee is satisfied that giving notice to immediately adjoining landholders and lessees is sufficient and that accordingly any breach of fundamental legislative principle is minor and is justified.

Water Act – offences apply to common meter users

Clause 335 introduces new section 829 in the *Water Act 2000* (Water Act). Under this provision, where water entitlement holders share a common water meter, and an offence is committed, each holder is taken to have committed the offence. Each holder is equally responsible and liable.

A water entitlement holder's rights and liberties would be affected if they are deemed to have committed an offence, merely by sharing a common water meter.

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72 Explanatory notes, p 20.

73 Explanatory notes, p 20.

Committee comment

A water entitlement holder would well feel aggrieved were they held to have committed an offence by having an offence imposed on them where the offence might have in reality have been committed by another user of the common meter.

The explanatory notes provide the following justification:

> *Take of water through a common meter by multiple water entitlement holders is a common occurrence and in these situations it is not possible for the department to establish responsibility, making the existing offences unenforceable. An alternative solution is to require each water entitlement holder to install a separate meter, creating significant additional regulatory burden state-wide. Instead, necessary safeguards such as providing for a reasonable excuse exemption have been included in the provision.*[74]

The committee considers that sufficient justification has been given for the breach of fundamental legislative principle.

3.1.1.2 Clauses 260, 279, 267

Clause 260 inserts section 141A of the *Mineral Resources Act 1989* and allows the Minister to vary conditions of an exploration authority without application.

Clause 279 inserts new section 42A in the *Petroleum and Gas (Production & Safety) Act 2004* which allows the Minister to vary conditions of a prospect authority without application.

Clause 267 inserts new section 147CB in the *Mineral Resources Act*. This provides the Minister the discretion to grant or refuse an extension of up to three years in exceptional events for an exploration authority.

The proposed provisions make the rights, liberties or obligations of an authority holder dependent on an administrative power and is not subject to internal review.

Committee comment

The Queensland Law Society provided the following comment in relation to proposed section 141A:

> *What is of particular concern with this proposal is that the holder is not given the right to be heard in respect of the exceptional event or the proposed change. Further, the proposal does not afford the holder a formal right of appeal in respect of the Minister's decision. QLS is concerned that this does not adhere to the principles of natural justice, in that the holder has no capacity to challenge the decision within the bounds of the legislation and is instead forced to commence the statutory review process in the Judicial Review Act 1991, requiring an application to the Supreme Court with associated costs and delay affecting both the applicant and the Minister as respondent.*[75]

In relation to clause 260 and the Minister's power to vary conditions of an exploration permit without application, the explanatory notes recognise this breach of fundamental legislative principle and provide the following justification:

> *…this has been addressed by limiting the exercise of this power in an exceptional event. If an industry-wide event negatively affects the resources industry, the power is intended to be used to the authority holder's benefit, to reduce or delay work program entitlements or relinquishment requirements.*[76]

The explanatory notes addressed the Minister's discretion to grant or refuse an extension of up to three years in exceptional events for an exploration permit (clause 267 inserting new section 147CB).

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74 Explanatory notes, p 21.

75 QLS, submission 11, p 4.

76 Explanatory notes, p 21.

While recognising a breach of fundamental legislative principle, the explanatory notes offer the following justification:

> *This is justified as the power is sufficiently defined in the Act. The application will only be approved if the exploration authority holder can demonstrate that exceptional events have occurred that prevented the holder from carrying out the approved work program and the tenure is about to expire. Exceptional events are those affecting the whole resources exploration industry, such as natural disasters or a global financial crisis.*[77]

The committee notes that industry is broadly accepting of these changes and that the department will continue to work with key stakeholders on this issue. The committee therefore considers that sufficient regard has been given to the rights and liberties of individuals.

3.1.1.3 Clause 41

Clause 41 introduces new section 339E and 339N into the *Land Act 1994*.

Section 339E provides that a prescribed dispute resolution entity (PDRE) does not incur civil liability in appointing a mediator or an arbitrator unless the act or omission is done or made in bad faith or through negligence.

Section 339N provides that the *Commercial Arbitration Act 2013* applies to the extent it is not inconsistent with new Subdivision 4 (Arbitration). Section 39(1) of the *Commercial Arbitration Act* provides that an arbitrator is not liable for anything done or omitted to be done in good faith in that capacity; and section 39(2) provides that an entity that appoints/fails to appoint a person as arbitrator is not liable in relation to the appointment, refusal or failure if done in good faith.

Legislation should not confer immunity from proceeding or prosecution without adequate justification.[78] The OQPC Notebook states:

> *[P]ersons who commit a wrong when acting without authority should not be granted immunity.*
>
> *Generally a provision attempting to protect an entity from liability should not extend to liability for dishonesty or negligence. The entity should remain liable for damage caused by the dishonesty or negligence of itself, its officers and employees.*
>
> *… the preferred provision provides immunity for actions done honestly and without negligence. In this case, if liability is removed from a person, it is usually shifted to the State.*[79]

Committee comment

This proposed provision, while removing liability from a mediator or arbitrator, does not shift this liability to the State. The liability does not appear to fall on any other entity.

The explanatory notes provide the following justification:

> *The breach poses a relatively low risk as the new dispute resolution framework has been established as a safety net dispute resolution process. For example, the new framework will only apply in the following circumstances:*
>
> - *if there is a dispute about a sublease in relation to its terms, including any amounts payable under the sublease, or the conduct of a party that affects (or may affect) the rights or obligations of another party under the sublease*
> - *if no other Act establishes a dispute resolution process that can deal with the particular dispute; and*

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77 Explanatory notes, p 21.

78 *Legislative Standards Act 1992*, s 4(3)(h).

79 Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 64.

- *if the sublease does not already include a dispute resolution process that can be used to resolve the dispute*

The application of the new dispute resolution framework will therefore potentially limit the number of disputes that will seek resolution under the framework. Furthermore, it is good commercial practice to include a robust dispute resolution clause in the terms of a sublease.[80]

The committee is satisfied that there is sufficient justification for the breach of fundamental legislative principle regarding immunity from proceeding.

3.1.2 Institution of Parliament

Section 4(2)(b) of the LSA requires legislation to have sufficient regard to the institution of Parliament.

3.1.2.1 Clauses 11, 12, 16, 19, 22 and 94

Clauses 11, 12, 16, 19, 22 and 94 relate to various matters under the *Aboriginal Land Act* and the *Torres Strait Islander Land Act 1991*. They each replace a current regulation making process with a ministerial declaration process

Appropriate delegation of legislation

A Bill should sufficiently subject the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly.[81]

The OQPC Notebook states:

For Parliament to confer on someone other than Parliament the power to legislate as the delegate of Parliament, without a mechanism being in place to monitor the use of the power, raises obvious issues about the safe and satisfactory nature of the delegation.[82]

One aspect to consider is whether the delegate may only make rules that are subordinate legislation, and thus subject to disallowance.

The issue of whether delegated legislative power is sufficiently subjected to the scrutiny of the Legislative Assembly often arises when power to regulate an activity is contained in a guideline or similar instrument that is not subordinate legislation and therefore not subject to parliamentary scrutiny.[83]

Committee comment

The Cape York Land Council Aboriginal Corporation (CYLC) raised concerns in its submission:

CYLC is also concerned that the proposed ministerial declaration process will prompt the characterisation of the declarations made as administrative in character, and so be subject to judicial review. The lack of clarity concerning the legislative or administrative character of the proposed declarations under the Bill will create the potential (likely in our view) that the liability of declarations to judicial review will be tested judicially and at length.[84]

The CYLC goes on to recommend that the amendments be removed from the Bill, or the legislative status of a declaration under the Bill should be declared as part of the legislation.

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80 Explanatory notes, p 18.

81 *Legislative Standards Act 1992*, section 4(4)(b).

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

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

84 Cape York Land Council Aboriginal Corporation, submission 8, p 2.

The explanatory notes recognise that the introduction of ministerial declaration in place of the existing regulation making process eliminates Parliamentary oversight.[85] The explanatory notes provide the following justification:

> *Safeguards are in place to mitigate any impacts from this potential FLP breach. The ministerial declaration process is subject to judicial review, which protects the interests of any potentially impacted person. Land may only be made transferable land after the requirements of section 16 of the* Land Act*, have been met. Section 16 of the* Land Act *requires the department's chief executive to evaluate the land to assess its most appropriate tenure and use. This evaluation must take account of the objects of the Land Act, which include a consultation process. The outcomes of this evaluation process will be taken into consideration by the chief executive.*[86]

Committee comment

The committee considers that sufficient regard has been given to the Institution of Parliament.

3.2 Explanatory notes

Part 4 of the *Legislative Standards Act 1992* requires that an explanatory note be circulated when a bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins. The explanatory notes tabled with the Bill comply with part 4 of the LSA.

85 Explanatory Notes, p 17.

86 Explanatory Notes, p 17.

Appendix A – Submitters

Sub #	Submitter
001	Roadvale Water Board
002	Joanna Kesteven and Joseph Mansour
003	Queensland Resources Council
004	WWF-Australia
005	Glamorgan Vale Water Board
006	Agforce Queensland
007	Lock the Gate Alliance and Environmental Defenders Office (joint submission)
008	Cape York Land Council Aboriginal Corporation
009	Australian Petroleum Production & Exploration Association Limited
010	David Crisafulli MP, Member for Broadwater
011	Queensland Law Society
012	Glencore Coal Assets Australia Pty Ltd

Appendix B – Officials at public briefing and public hearings

Public briefing, Brisbane 6 March 2019

Department of Natural Resources, Mines and Energy

- Mr Lyall Hinrichsen, Executive Director, Land Policy
- Mr David Wiskar, Executive Director, Water Policy
- Ms Claire Cooper, A/Executive Director, Mineral and Energy Resources Policy
- Ms Catherine Cussen, A/General Manager, Analytics, Regulation and Commercial
- Ms Sarah Bill, Manager, Land Policy

Queensland Treasury

- Mr Dennis Molloy, Assistant Under Treasurer, Shareholder and Structural Policy Division
- Ms Louise Dunne, Principal Policy Analyst, Energy Generation GOC Restructure Project Team

Public hearing, Brisbane, 25 March 2019

Queensland Resources Council

- Mr Andrew Barger, Economics and Infrastructure Policy Director
- Ms Emma Hansen, Resources Senior Policy Advisor

AgForce

- Mr Michael Guerin, Chief Executive Officer
- Dr Dale Miller, General Manager – Policy

Queensland Law Society

- Mr Bill Potts, President
- Ms Karyn Reardon, Member, Alternative Dispute Resolution Committee
- Mr James Plumb, Chair, Mining and Resources Law Committee
- Ms Vanessa Krulin, QLS Senior Policy Solicitor

Department of Natural Resources, Mines and Energy

- Mr Lyall Hinrichsen, Executive Director, Land Policy
- Mr David Wiskar, Executive Director, Water Policy
- Ms Claire Cooper, A/Executive Director, Mineral and Energy Resources Policy
- Ms Catherine Cussen, A/General Manager, Analytics, Regulation and Commercial
- Ms Sarah Bill, Manager, Land Policy

Appendix C – Proposed new or amended offence provisions

[NOTE: ONE PENALTY UNIT = $130.55]

Clause	Offence	Proposed maximum penalty
76	**Replacement of ss 75 and 76** Sections 75 and 76 *omit, insert -* **75 Carrying out cadastral surveys** (1) A person who is not a registrant must not carry out a cadastral survey. Maximum penalty - 100 penalty units. (2) A person who is a registrant must not carry out a cadastral survey if the person is not a cadastral surveyor. Maximum penalty - 100 penalty units. **76 Carrying on a business providing cadastral surveying services** (1) A person who is not a consulting cadastral surveyor must not carry on a business providing services relating to carrying out cadastral surveys. Maximum penalty -50 penalty units. (2) A person who is not a consulting cadastral surveyor must not charge a fee for carrying out a cadastral survey. Maximum penalty -50 penalty units.	$13,055 $13,055 $6,527.50 $6,527.50
148	**Replacement of s 311 (Witnessing documents for individuals)** Section 311 - *omit, insert -* **311 Witnessing documents for individuals** (5) The person must comply with a request under subsection (4) unless the person has a reasonable excuse. Maximum penalty - 20 penalty units	$2,611.00

303	**Insertion of new ch 2, pt 1, div 8, sdiv 2A** Chapter 2, part 1, division 8 - *Insert -* **Subdivision 2A Amalgamating potential commercial areas** **170B Applying to amalgamate** (3) Also, a person can not make an application under subsection (1) if - (a) any of the holders of the individual leases have not complied with a provision of this Act; or (b) any of the following amounts is outstanding in relation to an individual lease - (ii) a civil penalty under section 156 for non-payment of annual rent; (iii) interest payable under section 588 on annual rent or a civil penalty;	civil penalty civil penalty
332	**Amendment of s 782 (Compliance with compliance notice)** Section 782, penalty - *omit, insert -* Maximum penalty - 1.5 times the maximum penalty for committing the offence to which the notice relates	
333	**Insertion of new s 808A** After section 808 - *insert—* **808A Taking water in excess of volume or rate allowed under water entitlement** (1) The holder of a water entitlement must not, in a period, take a volume of water more than the volume of water allowed to be taken under the water entitlement in the period. Maximum penalty -1,665 penalty units. (2) The holder of a water entitlement must not take water at a rate more than the rate at which water is allowed to be taken under the entitlement. Maximum penalty -1,665 penalty units.	$217,365.80 $217,365.80

334	**Replacement of s 816 (Unauthorised water bore activities)** Section 816 - *omit, insert* - **816 Unauthorised water bore drilling activities** (1) An individual must not carry out a water bore drilling activity, other than an exempt activity, unless the individual is - (a) licensed under chapter 8, part 2B to carry out the activity; or (b) under the constant physical supervision of an individual who is licensed under chapter 8, part 2B to carry out the activity; or (c) lawfully carrying out the activity under - (i) the Mineral Resources Act, section 334ZQ; or (ii) the Petroleum Act 1923, section 75K; or (iii) the Petroleum and Gas Act, section 282. Maximum penalty - 1,665 penalty units.	$217,365.80

Statement of Reservation

The non-government members of the committee submit this Statement of Reservation to express their deep concern to the enormity and complexity of this Bill.

This omnibus Bill seeks to amend 29 separate Acts which the non-government members believe is beyond the capacity of the committee and research staff to adequately dissect each and every amendment in the reporting time available.

The report contains some quotes that would indicate the Queensland Resource Council and the Queensland Law Society both were happy with the consultation process.

There are some other quotes not included in the report that would indicate otherwise such as:

Andrew Barger from the QRC:

"In introducing it, Anthony Lynham must have almost tossed up whether it was easier to list the bills that it did not amend. My tally marks on the introductory speech got to 29, which is probably up there as a personal best in terms of number of bills amended. In an ideal world you would not be trying to write a definitive submission on this bill in 15 business days."

QLS stated in response to the question of the size of this omnibus Bill:

"The most difficult position that we have in assisting the parliament in its important business is hoping that we have not missed anything."

Statements such as these did not fill the non-government members with confidence that all unintended consequences of this Bill were able to be investigated.

There were a number of times during the public hearing in Brisbane where QRC stated consultation was ongoing which would indicate the committee was being asked to pass a Bill that was not complete.

AgForce expressed concern in regard to the amendments to the *Land Act 1994* giving powers of entry to departmental officers to privately owned land in order to access state owned land in certain circumstances.

AgForce raised further concerns with the amendments to the *Foreign Ownership of Land Register Act 1988*.

Many of the amendments were supported by submitters, the problem being that the committee could not scrutinise all amendments in the time available.

The Palaszczuk government likes to portray itself as open and accountable. Large omnibus bills such as this portray exactly the opposite and fail the good government test.

Pat Weir MP
Member for Condamine
Deputy Chair of State Development, Natural Resources and Agricultural Industry Development Committee

Brent Mickelberg MP
Member for Buderim
Shadow Assistant Minister for Tourism Industry Development

David Batt MP
Member for Bundaberg
Shadow Assistant Minister for State Development

17 April 2019