

Gasfields Commission and Other Legislation Amendment Bill 2017

Explanatory Notes

Short title

The short title of the Bill is the Gasfields Commission and Other Legislation Amendment Bill 2017 (the Bill).

Policy objectives and the reasons for them

The objective of the Bill is to provide for improvements to the operational structure of the Gasfields Commission Queensland (the commission) which will improve its operation and clearly distinguish between the roles of the commission board and the staff of the commission.

On 18 December 2015, the Premier and Minister for the Arts committed to an independent review of the commission to determine whether the current structure worked effectively to manage disputes between resource companies and landholders. The review was undertaken by Professor Robert Scott, a retired member of the Land Court of Queensland with extensive experience in land valuation, compensation and land use matters. Professor Scott delivered his final report to government on 29 July 2016.

As part of the review, interviews were conducted with 82 individuals including landholders, peak producer groups, industry, industry peak bodies, government agencies, local governments, community groups and other interested stakeholders. In addition, 58 submissions from a range of stakeholders, comprising of 30 online questionnaire responses and 28 detailed written responses, were considered as part of the review.

The review into the commission made a range of specific recommendations in relation to the *Gasfields Commission Act 2013* (Gasfields Act) as well as a number of recommendations for administrative, strategic and operational changes. The government supported, or supported in principle, the majority of the 18 recommendations made by Professor Scott. The amendments included in the Bill will implement several of the recommendations from the review and aim to:

- give effect to a new structure that separates the strategic and operational aspects of the commission
- allow the chairperson to be part-time
- redesignate the role of general manager to chief executive officer.

The Bill also expands the contractual framework for biodiscovery under the *Biodiscovery Act 2004* (Biodiscovery Act). Currently, the Biodiscovery Act provides for agreements between the State and entities carrying out biodiscovery (benefit sharing agreements) under which entities agree to provide benefits of biodiscovery to the State. This reform will expand the contractual arrangements available to allow other entities to enter into subsequent use agreements with a party to a benefit sharing agreement. This will streamline

the formation of commercial chains. The existing approach under the Biodiscovery Act is considered to be too onerous to be commercially viable in most instances. The amendments will stimulate further innovation and investment in biodiscovery in Queensland. It responds to stakeholder feedback from the 2016 Independent Statutory Review of the Biodiscovery Act and to ongoing consultation through the negotiation of benefit sharing agreements with biodiscovery entities.

The Bill will also amend the *Sustainable Ports Development Act 2015* (Ports Act) to ensure that port overlay provisions are applied consistently to development assessed against a local government planning scheme under the *Sustainable Planning Act 2009* or the *Planning Act 2016* (Planning Acts), or a land use plan under the *Transport Infrastructure Act 1994* (Transport Act) in priority port master planned areas. The amendment will clarify that development within a state development area or priority development area that is not assessed against the development scheme but regulated under the local government planning scheme or land use plan must consider the port overlay.

Achievement of policy objectives

To achieve the policy objective, the Bill amends the Gasfields Act to provide clearer separation between the strategic and operational functions of the commission. This is achieved through modifying membership requirements and clarifying the responsibilities of the chief executive officer to achieve a more efficient and effective operating structure. The Bill implements specific recommendations made by the independent reviewer in relation to the Gasfields Act. Other amendments proposed are minor administrative amendments to provide clarity around the administration of the commission.

The policy objective in relation to the Biodiscovery Act is to reduce red tape for stakeholders and facilitate further innovation and investment. The Bill allows a party to a benefit sharing agreement with the State, to enter into a subsequent use agreement with other biodiscovery entities for biodiscovery, subject to prescribed minimum terms being included in the subsequent use agreement. A party to a subsequent use agreement may enter into further subsequent use agreements with downstream entities, allowing the formation of biodiscovery commercial chains.

The policy objective in relation to the amendment to the Ports Act is to ensure that the State can implement its commitments made under the *Reef 2050 Long-Term Sustainability Plan* with respect to priority port master planning. This will ensure that port overlay provisions which implement a priority port master plan are applied consistently to development assessed against a local government planning scheme under the Planning Acts or a land use plan under the Transport Act in priority port master planned areas, providing that development is not regulated by the development scheme for a state development area or a priority development area.

Alternative ways of achieving policy objectives

Regulatory change is required to give effect to a new operating structure and functions of the commission in order to deliver on the reforms identified through the review. A number of the recommendations from the review can only be delivered via legislative amendment of the Gasfields Act.

In relation to the Biodiscovery Act and Ports Act, the reforms can only be fully delivered via legislative amendment.

Estimated cost for government implementation

There are no significant implementation costs for government associated with the amendments to the Gasfields Act, Biodiscovery Act or the Ports Act. The operational changes are expected to be managed within the existing budget of the commission, Department of Science, Information Technology and Innovation (DSITI) and Department of State Development (DSD) respectively.

Consistency with fundamental legislative principles

The Bill is considered to be consistent with the fundamental legislative principles (FLPs) set out in section 4 of the *Legislative Standards Act 1992*. Further detail on specific clauses in the Bill is provided below.

Does the legislation have sufficient regard to the rights and liberties of individuals – Legislative Standards Act 1992, section 4(3) – whether the offence is considered to be proportionate and relevant to the actions to which the consequences are applied by the legislation

Clause 13 (Insertion of new s 55A (Contravening prescribed minimum terms of a subsequent use agreement)) inserts a new offence to ensure that a subsequent user who is a party to a subsequent use agreement does not contravene a prescribed minimum term of the agreement.

The offence is proportionate and relevant to the action to which the penalty is applied. It is essential that subsequent users comply with the prescribed minimum terms in subsequent use agreements. It is also important in safeguarding the State's interests where (unlike benefit sharing agreements) the State does not have a direct contractual relationship with the subsequent user.

Does the legislation have sufficient regard to the rights and liberties of individuals – Legislative Standards Act 1992, section 4(3)(c) – by allowing the delegation of administrative power only in appropriate cases and to appropriate persons

Clause 31 (Amendment of s 36 (Delegation)) of the Bill extends the power of the chairperson to delegate the chairperson's functions to the chief executive officer. This clause is potentially inconsistent with the principle set out in section 4(3)(c) of the *Legislative Standards Act 1992* that requires the delegation of administrative power only in appropriate cases and to appropriate persons. It is considered that the chief executive officer, who is appointed by the commission and subject to direction by the chairperson, is an appropriate exercise of the delegation of administrative power. Further, the delegation is at the discretion of the chairperson, restricted to the chief executive officer and the functions cannot be sub-delegated.

The chief executive officer is also provided with the power to delegate responsibilities in section 30A to other staff of the commission. This provision is not inconsistent with FLPs as responsibilities are primarily for the day-to-day administration of the commission and can be

carried out by other commission staff in practice. This is similar to the delegation of responsibilities within government agencies or bodies at the discretion of the chief executive officer.

Does the legislation have sufficient regard to the rights and liberties of individuals – Legislative Standards Act 1992, section 4(3)(h) – by not conferring immunity from proceeding or prosecution without adequate justification

Clause 35 (Amendment of s 44 (Protection from liability)) of the Bill is an administrative change to section 44 to amend the title of general manager to chief executive officer. As there is no change to the rest of the provision, it is considered that the amendment is not inconsistent with FLPs.

Does the legislation have sufficient regard to the rights and liberties of individuals – Legislative Standards Act 1992, section 4(3)(a) – by making rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review

Clause 37 (Insertion of new pt 7 (Transitional provisions for Gasfields Commission and Other Legislation Amendment Act 2017)) inserts a transitional provision to ensure that the general manager is not entitled to compensation because of the repeal of section 30. This proposed restriction could be argued to adversely affect the rights and liberties of the individual employed as the general manager immediately prior to commencement. However, any adverse effect from the amendment is prevented by providing for the individual to be immediately employed as the chief executive officer on the same terms, as far as practicable, immediately before the commencement of the Bill. The proposed amendments are also considered to be justified as they operate to protect public revenue from providing an unintended windfall to the chief executive officer, that might otherwise be payable because of the repeal of former section 30.

Consultation

Community

Extensive community consultation was undertaken during the review of the commission between March and July 2016. The independent reviewer, Professor Scott, considered 58 written submissions and undertook 82 individual interviews including landholder visits.

During the development of the Bill, DSD briefed key stakeholders on the proposed amendments including:

- Queensland Resources Council
- Australian Petroleum Production and Exploration Association
- Lock the Gate Alliance
- AgForce Queensland
- Queensland Farmers' Federation
- Local Government Association Queensland.

The commission was also consulted extensively during the preparation of the Bill.

Extensive consultation with biodiversity stakeholders was undertaken during the independent Statutory Review of the Biodiscovery Act in May to July 2016. In preparing the amendments to the Biodiscovery Act, DSITI has consulted with active biodiversity stakeholders including:

- Griffith University
- The University of Queensland
- James Cook University
- Queensland University of Technology
- The University of the Sunshine Coast
- Dugalunji Aboriginal Corporation
- The Australian Institute of Marine Science
- Rijk Zwaan
- Seqirus
- EcoBiotics.

No stakeholder consultation has been undertaken in relation to the minor amendment to the Ports Act.

Government

Government agencies consulted during preparation of the Bill in relation to the Gasfields Act and the Biodiscovery Act include:

- Department of the Premier and Cabinet (DPC)
- Queensland Treasury (QT)
- Department of Natural Resources and Mines
- Department of Environment and Heritage Protection
- Queensland Health
- DSITI
- DSD
- Department of Aboriginal and Torres Strait Islander Partnerships
- Department of Infrastructure, Local Government and Planning (DILGP)
- Department of Justice and the Attorney-General
- Department of Agriculture and Fisheries.

DPC, DILGP, QT and the Department of Transport and Main Roads were also consulted in relation to the Ports Act amendment.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland and amends parts of the Gasfields Act, Biodiscovery Act, *Right to Information Act 2009*, Ports Act and the *Public Service Regulation 2008* (Public Service Regulation). The Gasfields Act, Ports Act and the Public Service Regulation are unique to Queensland.

In relation to the Biodiscovery Act, the Northern Territory and the Commonwealth governments have legislation to regulate the use of native biological material for biodiversity. Those Acts, like the Biodiscovery Act, have a jurisdictional trigger tied to the location of the originally collected material. Only in rare circumstances, such as in the Great

Barrier Reef Marine Park, might more than one Act apply and it will be administered through agreement between governments.

Notes on provisions

Part 1 Preliminary

1 Short title

Clause 1 states that this Act, if enacted, may be cited as the *Gasfields Commission and Other Legislation Amendment Act 2017*.

Part 2 Amendment of the Biodiscovery Act 2004

2 Act amended

Clause 2 states that part 2 of the Bill amends the *Biodiscovery Act 2004* (Biodiscovery Act).

3 Amendment of s 3 (Purposes of Act)

Clause 3 amends section 3(2)(a)(ii) of the Biodiscovery Act to add ‘and subsequent use agreements under those agreements’ so that the new subsequent use agreement is included in the contractual framework of the Biodiscovery Act, under benefit sharing agreements.

4 Amendment of pt 5, hdg (Benefit sharing agreements)

Clause 4 amends the part 5 heading to omit ‘agreements’ to reflect the inclusion of subsequent use agreements.

5 Replacement of pt 5, div 1, hdg (Entering into agreement)

Clause 5 replaces the part 5, division 1 heading ‘entering into agreement’ with ‘agreements’. This amendment is to reflect that the division will deal with both benefit sharing agreements and the subsequent use agreements.

6 Amendment of s 33 (Power to enter into agreement)

Clause 6 amends the heading of section 33 to add ‘benefit sharing’ before ‘agreement’. This amendment to the heading of section 33 specifies that the section applies to benefit sharing agreements.

7 Amendment of s 34 (Content of agreement)

Clause 7 amends the heading of section 34 to add ‘benefit sharing’ before ‘agreement’. This amendment specifies that the section applies to benefit sharing agreements only.

This clause also inserts section 34(4), which states that the agreement must state the terms (the *prescribed minimum terms*) that must be included in any subsequent use agreement entered into under the agreement. This section is required to ensure that each benefit sharing agreement with the State includes prescribed minimum terms, and that those terms are included in each subsequent use agreement entered into under that benefit sharing agreement.

The inclusion of the prescribed minimum terms will safeguard the State's interests in relation to the use of that native biological material for biodiscovery down through the commercial chain, by placing primary responsibility for downstream compliance with the party to the benefit sharing agreement.

This clause also inserts section 34(5), which states that the prescribed minimum terms must include a requirement for a subsequent user to provide benefits of biodiscovery, by way of the biodiscovery entity, to the State. This amendment is required to make clear that the provision of benefits to the State is a key characteristic of subsequent use agreements and one which differentiates this type of agreement from an engagement of a fee for service contractor under section 35(2)(a).

8 Amendment of s 35 (Conditions of agreement)

Clause 8 inserts the words 'benefit sharing' after 'of' in the heading. This change reflects that the section applies to benefit sharing agreements only.

The clause replaces section 35(2)(a) to clarify the application of the exemption so that an entity 'assisting' the biodiscovery entity with biodiscovery from section 35(2) is exempt, where the entity is not entitled to a gain from the use of the material other than a fee for the assistance.

The element of non-entitlement to gain for use of the material, will exclude entities entitled to royalties or other commercialisation benefits from utilising this exemption. The element of providing benefits of biodiscovery to the State will assist in delineating this exemption from that available under a subsequent use agreement pursuant to section 35(2)(d).

The clause therefore inserts a new section 35(2)(d) to include subsequent use agreements as a new exception to the benefit sharing agreement condition that a biodiscovery entity must not allow another entity to use native biological material the subject of the benefit sharing agreement.

The addition of section 35(2)(d) is necessary to allow subsequent users to use material for biodiscovery (pursuant to their subsequent use agreement) without such use contravening this condition of the relevant benefit sharing agreement for that material.

9 Insertion of new s 35A

Clause 9 inserts a new section 35A (Subsequent use agreements) to provide for subsequent use agreements in the Biodiscovery Act.

New section 35A(1) states the section applies if a benefit sharing agreement (the **head agreement**) is in force between the State and a biodiscovery entity (the **primary user**).

This provides an additional option for the primary user to enter into a subsequent use agreement with other biodiscovery entities down the commercial chain. The clause provides for the extension of a commercial chain from a subsequent user to a further subsequent user, subject to the same requirement that each subsequent use agreement include the prescribed minimum terms included in the head agreement.

New section 35A(2) states that a primary user may enter into a subsequent use agreement with another biodiscovery entity allowing the subsequent user to use the native biological

material which is the subject of the head agreement for biodiversity if the subsequent use agreement includes the prescribed minimum terms required under the head agreement.

As the subsequent user does not deal directly with the State, the compliance and reporting obligations are encompassed in the prescribed minimum terms within the subsequent use agreement and enforced by the primary user, including the benefits of biodiversity which are provided through the primary user to the State. Each subsequent use agreement must include the prescribed minimum terms included in the head agreement.

New section 35A(3) permits a subsequent user to also enter into an agreement with another biodiversity entity for the use of native biological material the subject of the head agreement, where each subsequent use agreement includes the prescribed minimum terms required under the head agreement.

New section 35A(4) inserts the condition that a subsequent use agreement ceases to have effect if the head agreement or subsequent use agreement under which it was entered into ends. This is required to ensure that the continuity and enforceability of the contractual chain is maintained.

10 Amendment of s 37 (Content of plan)

Clause 10 inserts a new section 37(aa) which requires that a biodiversity entity that proposes the use of native biological material under a subsequent use agreement includes the activities to be carried out under the subsequent use agreement in the entity's biodiversity plan.

The purpose of new section 37(aa) is to ensure that proposed biodiversity activities to be undertaken by subsequent users are detailed and approved for subsequent use agreements as well as for the benefit sharing agreement.

Section 37(d) is amended to require that types of activities carried out by an entity mentioned in section 35(2)(a) are detailed in the biodiversity plan. This change clarifies that the entity referred to in section 37(d) is the one described in section 35(2)(a).

11 Amendment of pt 7, div 2, hdg (Offences about benefit sharing agreements)

Clause 11 amends the heading of part 7, division 2 to remove 'benefit sharing' to clarify that the part applies to both benefit sharing and subsequent use agreements.

12 Amendment of s 54 (Using native biological material for biodiversity without a benefit sharing agreement)

Clause 12 amends the heading of section 54 to replace 'a benefit sharing agreement' with 'particular agreements' to reflect that the section also applies to subsequent use agreements.

This clause inserts 'or subsequent use agreement' in section 54(1) to apply the exemption from the offence to parties to a subsequent use agreement as well as a benefit sharing agreement.

This clause replaces section 54(2)(c) to clarify that an entity mentioned in section 35(2)(a) is exempt from the offence under section 54(1). This change is consequential to the change in section 35(2), and clarifies that the entity referred to in section 54(2)(c) is the one described in section 35(2)(a).

13 Insertion of new s 55A

Clause 13 inserts new section 55A (Contravening prescribed minimum terms of a subsequent use agreement) which makes contravening the prescribed minimum terms of a subsequent use agreement an offence to which a maximum penalty of 100 units applies.

This offence is necessary to ensure subsequent users comply with the prescribed minimum terms and are not less accountable in this regard than the primary user under the benefit sharing agreement. The penalty is similar to the offence which applies to contravention of particular conditions of a benefit sharing agreement under existing section 55.

14 Amendment of s 117 (Disclosure of information about collection authority, benefit sharing agreement or biodiversity plan)

Clause 14 amends section 117 to add 'subsequent use agreement' after 'agreement'. This broadens the scope of the section to include subsequent use agreements as well as benefit sharing agreements. The purpose of the section is to prevent unauthorised disclosure of sensitive commercial information of subsequent users, in addition to collection authority holders and biodiversity entities.

15 Amendment of s 118 (Liability of State)

Clause 15 amends section 118 to insert 'or subsequent use agreement' after 'agreement'. This extends the scope of the section to include subsequent use agreements. The section will exempt the State for any liability for an act or omission merely due to entering a subsequent use agreement, in addition to a collection authority being issued, or benefit sharing agreement being entered into.

16 Amendment of s 120 (Whistleblowers' protection)

Clause 16 amends section 120(1) to replace 'or a benefit sharing agreement' with 'a benefit sharing agreement or a subsequent use agreement'. This change extends the scope of the section to include subsequent use agreements.

17 Amendment of schedule (Dictionary)

Clause 17 amends the schedule to insert additional definitions for the new terms *prescribed minimum terms*, *subsequent use agreement* and *subsequent user*.

Part 3 Amendment of Gasfields Commission Act 2013**18 Act amended**

Clause 18 states that part 3 of the Bill amends the *Gasfields Commission Act 2013* (the Gasfields Act).

19 Amendment of s 7 (Commission's functions)

Clause 19 amends section 7 of the Gasfields Act. Current section 7(g) of the Gasfields Act provides that convening landholders, regional communities and onshore gas industry for the purposes of resolving issues is a function of the Gasfields Commission Queensland (the commission). Section 7(g) is omitted to allow the commission to focus on facilitating better relationships between gas companies and landholders at a strategic level, rather than through involvement in individual disputes.

New subsections (ia) and (ib) are inserted into section 7 of the Gasfields Act and provide two new functions for facilitating the provision of information and community participation in health and well-being matters relating to onshore gas activities. These functions will be performed in conjunction with health specialists and service providers and are intended to be a coordination and communication role only.

This amendment gives effect to recommendation 2(i) of the independent review of the commission.

20 Replacement of s 9 (Membership of commission)

Clause 20 amends the membership of the commission and the process for appointing commissioners.

Section 9 of the Gasfields Act is amended to provide that the commission consists of either a full-time or part-time commissioner, who is the chairperson; and up to 6 part-time commissioners. As the Gasfields Act currently requires that the chairperson be appointed on a full-time basis, the Governor in Council could not appoint a part-time chairperson. This section must be amended to ensure that the commission can be properly constituted and operate effectively with a part-time chairperson.

Provisions from sections 9(2) to 9(3) relate to how a commissioner is appointed and are relocated to new section 9A (Appointment as a commissioner). Section 9(2) of the Gasfields Act is amended so that the commission must include a commissioner who has knowledge of, or experience with (as opposed to ‘representing’), the interests of landholders, communities in which the onshore gas industry operates and the onshore gas industry instead of representing these sectors. This amendment reflects the changing role of the commissioners to providing strategic management for the commission and removes any perception that commissioners are advocates for particular sectors.

This amendment gives effect to recommendation 1(a) of the independent review of the commission.

Section 9(3) has been included to ensure that the advice provided by the commission would still need to be considered for a regional planning interests application (under the *Regional Planning Interests Act 2014*), even if there was a defect or irregularity in the appointment process for commissioners. The advice provided by the commission is valuable input into the decision-making process and this ensures it is taken into consideration.

21 Amendment of s 10 (Eligibility for appointment as a commissioner)

Clause 21 amends section 10 of the Gasfields Act to replace ‘qualified’ with ‘eligible’. The purpose of this amendment is to clarify that a person with the listed qualifications is eligible to be appointed as a commissioner.

22 Replacement of ss 15 and 16

Clause 22 amends section 15 (Leave of absence) of the Gasfields Act to allow the Minister to approve a leave of absence for a commissioner who requests leave. Previously, the chairperson could grant leave for a part-time commissioner. The purpose of the amendment is to remove the requirement that leave can only be approved in accordance with entitlements in the terms and conditions of appointment. This recognises that in the future, part-time commissioners may not have leave entitlements.

This clause also amends section 16 (Acting commissioner) of the Gasfields Act to allow the Minister to appoint an eligible person to act as a part-time commissioner during a period of absence. Previously, the Minister could only temporarily appoint a person to act as chairperson, not as a part-time commissioner. The purpose of this amendment is to ensure, given the small size of the board, that the commission can continue to function properly and represent the interests of landholders, communities and the onshore gas industry under new section 9A(2)(b).

Section 16(1) is amended to allow the Minister to appoint an eligible person, even if that person is not currently a commissioner. The purpose of this amendment is to clarify that the acting chairperson does not need to have been appointed by the Governor in Council as a commissioner prior to acting as chairperson. This amendment is necessary to ensure continuity of the commission in the event of an extended period of absence of the chairperson.

The provision retains the existing ability of the chairperson to appoint any other commissioner to act as chairperson for up to 14 days, in the event the chairperson goes on leave or is absent from the State.

23 Amendment of s 19 (Disclosure of interests at commission board meetings)

Clause 23 amends section 19(1)(b) to clarify that a commissioner must disclose an interest if it could impact on the proper performance of either the functions or powers of the commission.

New section 19(6A) is also inserted and applies the disclosure requirements in section 19 to the chief executive officer as if they were a commissioner. The purpose of this amendment is to ensure that the deliberations of the commission at a board meeting occur in a transparent environment. A note is inserted to clarify that the chief executive officer does not have a right to vote at a commission board meeting.

24 Amendment of s 21 (Purposes of commission board meetings)

Clause 24 amends the purposes of commission board meetings to remove the activity of developing plans to address key issues being considered by the commission. This activity is considered to be operational in nature and will be included in a new section to establish the responsibilities of the chief executive officer.

25 Amendment of s 22 (Conduct of commission board meetings)

Clause 25 amends section 22(4) of the Gasfields Act to provide that a quorum for a commission board meeting is the chairperson and two other commissioners. The purpose of this amendment is to ensure that the commission can effectively hold board meetings in circumstances where not all commissioners are available.

26 Amendment of s 29 (Gasfields community leaders council)

Clause 26 amends section 29 of the Gasfields Act to make it a responsibility of the chief executive officer to convene and chair the Gasfields Community Leaders Council (the council) meetings. The purpose of this amendment is to reflect the increased role of the chief executive officer in the day-to-day operations of the commission and that a part-time chairperson may be appointed in future.

It will continue to be a function of the commission to decide the individuals invited to participate in the council, so that local governments, regional communities and the onshore gas industry are represented.

27 Replacement of s 30 (General manager)

Clause 27 replaces section 30 of the Gasfields Act to redesignate the position of ‘general manager’ to ‘chief executive officer’. The purpose of this amendment is to reflect the increased responsibility of the position in managing the day-to-day operational functions of the commission.

This clause also inserts a new section 30(5) which allows the Minister to request that the chairperson fill the position of chief executive officer, if it has been vacant for more than four months. The role of chief executive officer will be critical to ensuring that the commission can continue to perform its functions properly. The purpose of this amendment is to ensure that a future long-term vacancy in the chief executive officer position does not impact on the performance of the commission.

New section 30A (Responsibilities of chief executive officer) is inserted to establish that the chief executive officer is responsible for the day-to-day operations of the commission, such as hiring and managing staff, as well as implementing the strategic priorities of the commission. The responsibilities of the chief executive officer also include ‘developing plans to address key issues being considered by the commission’. This is seen to be an operational responsibility and has been moved from current section 21(c) of the Gasfields Act (which sets out the purpose of board meetings) to new section 30A. Section 30A(2) is inserted to make clear that the chief executive officer must carry out any direction by the chairperson to help the commission perform its functions. The purpose of this amendment is to ensure that there is a clear distinction between the functions of the commissioners, which are to provide strategic direction for the commission, and the chief executive officer and other staff of the commission.

28 Amendment of s 31 (Commission staff)

Clause 28 amends the title of section 31 to include the word ‘other’. This is to ensure clear differentiation between the chief executive officer and the other staff of the commission, given the specific responsibilities of the chief executive officer.

29 Amendment of s 33 (Commission not subject to outside direction)

Clause 29 amends section 33 to replace ‘general manager and staff’ with ‘chief executive officer or other staff’, so that the section applies to the new role of chief executive officer, as well as the other staff of the commission.

30 Amendment of s 34 (Annual budgets and financial management policies)

Clause 30 amends section 34(6) and (7) of the Gasfields Act to replace the references to ‘part-time commissioners’ with ‘other commissioners’. For example, once amended subsection (7) will state ‘the chairperson in consultation with the other commissioners’. The intent is to make the operation of this section clear, as the chairperson may also be a part-time commissioner in the future.

31 Amendment of s 36 (Delegation)

Clause 31 amends section 36 of the Gasfields Act to allow the chairperson to delegate any of the chairperson’s functions to any other commissioner or to the chief executive officer. The

purpose of this amendment is to ensure that the commission is able to continue to perform its functions seamlessly, where a future chairperson is not appointed on a full-time basis. The power of the commission to delegate its functions to the chief executive officer and other staff of the commission is retained.

The clause also inserts a new subsection (2A) which allows the chief executive officer to delegate their responsibilities under new section 30A to the other staff of the commission.

32 Amendment of s 39 (Use of confidential information)

Clause 32 amends section 39 of the Gasfields Act to refer to the chief executive officer instead of the general manager.

33 Amendment of s 41 (Appointments and authority)

Clause 33 amends section 41 of the Gasfields Act to refer to the chief executive officer instead of the general manager.

34 Amendment of s 42 (Signatures)

Clause 34 amends section 42 of the Gasfields Act to refer to the chief executive officer instead of the general manager.

35 Amendment of s 44 (Protection from liability)

Clause 35 amends section 44 of the Gasfields Act to refer to the chief executive officer instead of the general manager.

36 Replacement of pt 6, hdg (Other matters)

Clause 36 inserts a new heading for part 6 titled ‘miscellaneous’.

37 Insertion of new pt 7

Clause 37 inserts a new part 7 (Transitional provisions for the Gasfields Commission and Other Legislation Amendment Act 2017). New section 47 defines terms used in part 7.

New section 48 (Appointment of initial chief executive officer) in the Gasfields Act for transitional provisions to provide that the person, who holds the office of general manager immediately prior to commencement of this Bill, will go out of office and be re-appointed as chief executive officer on commencement. This provision ensures that the change from general manager to chief executive officer occurs efficiently and with minimum disruption to the commission’s operation.

New section 49 (Initial chief executive officer—how employed and prohibition on particular benefits) is required so that it is clear that the initially appointed chief executive officer, who was the general manager immediately before commencement, is not entitled to compensation or other benefits provided in the conditions of employment, despite going out of office.

New section 50 (Continuation of particular former provisions about general manager) is required so that obligations applying to a former general manager will continue to apply after commencement of the Bill.

38 Amendment of sch 1 (Dictionary)

Clause 38 amends the dictionary to amend the definitions for *chairperson* and *commissioner*, and insert a new definition for *chief executive officer*. The definitions aid interpretation of the Gasfields Act.

This clause also makes a minor correction to replace ‘with’ with ‘within’ in the definition of *onshore gas industry* and *onshore gas operator*.

Part 4 Amendment of Right to Information Act 2009

39 Act amended

Clause 39 states that part 4 of the Bill amends the *Right to Information Act 2009* (Right to Information Act).

40 Amendment of sch 1 (Documents to which this Act does not apply)

Clause 40 amends schedule 1, section 11 to make ‘a subsequent use agreement’ and ‘a record kept by a department about a subsequent use agreement’ exempt from the Right to Information Act. It is appropriate that this exemption is applied to the new subsequent use agreements and associated records to prevent unauthorised disclosure of sensitive commercial information.

Part 5 Amendment of Sustainable Ports Development Act 2015

41 Act amended

Clause 41 states that part 5 of the Bill amends the *Sustainable Ports Development Act 2015* (Ports Act).

42 Amendment to s 19 (Port overlay required)

Clause 42 replaces section 19(4) of the Ports Act to clarify that a port overlay cannot regulate development regulated by a development scheme for a priority development area under the *Economic Development Act 2012* or a state development area under the *State Development and Public Works Organisation Act 1971*.

The provision clarifies that development within a priority development area or state development area that is not assessed against the development scheme but regulated under the local government planning scheme under the *Sustainable Planning Act 2009* or the *Planning Act 2016*, or a land use plan under the *Transport Infrastructure Act 1994* must consider the port overlay.

Part 6 Amendment of Public Service Regulation 2008

43 Regulation amended

Clause 43 states that part 6 of the Bill amends the *Public Service Regulation 2008* (Public Service Regulation).

44 Amendment of sch 1 (Public service offices, their heads and applied provisions)

Clause 44 states that schedule 1 of the Public Service Regulation will be amended to replace ‘general manager’ with ‘chief executive officer’. This amendment ensures consistency of terminology between the Public Service Regulation and the Gasfields Act.

45 Amendment of sch 3 (Applied rulings for declared public service offices)

Clause 45 amends schedule 3 of the Public Service Regulation to state that section 2(2) applies to staff of the commission, other than the chief executive officer. This includes rulings about matters such as appeals, court attendance and jury service and critical incident entitlements and conditions.