



Queensland

# **Gasfields Commission Act 2013**

**Act No. 16 of 2013**





Queensland

# Gasfields Commission Act 2013

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Queensland

## **Gasfields Commission Act 2013**

### **Act No. 16 of 2013**

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**An Act to establish the Gasfields Commission and to amend this and another Act for particular purposes**

**[Assented to 29 April 2013]**

**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Gasfields Commission Act 2013*.

### **2 Commencement**

This Act commences on 1 July 2013.

### **3 Purpose**

The purpose of this Act is to establish the Gasfields Commission to manage and improve the sustainable coexistence of landholders, regional communities and the onshore gas industry in Queensland.

### **4 Act binds all persons**

This Act binds all persons, including the State.

### **5 Definitions**

The dictionary in schedule 1 defines particular words used in this Act.



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## **Part 2                      Gasfields Commission**

### **Division 1                      Establishment, functions and powers of commission**

#### **6                      Establishment of commission**

The Gasfields Commission is established.

#### **7                      Commission's functions**

The commission has the following functions—

- (a) facilitating better relationships between landholders, regional communities and the onshore gas industry;
- (b) reviewing the effectiveness of government entities in implementing regulatory frameworks that relate to the onshore gas industry;
- (c) advising Ministers and government entities about the ability of landholders, regional communities and the onshore gas industry to coexist within an identified area;
- (d) making recommendations to the relevant Minister that regulatory frameworks and legislation relating to the onshore gas industry be reviewed or amended;
- (e) making recommendations to the relevant Minister and onshore gas industry about leading practice or management relating to the onshore gas industry;
- (f) advising the Minister and government entities about matters relating to the onshore gas industry;
- (g) convening landholders, regional communities and the onshore gas industry for the purpose of resolving issues;
- (h) obtaining particular information from government entities and prescribed entities;
- (i) obtaining advice about the onshore gas industry or functions of the commission from government entities;

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- (j) publishing educational materials and other information about the onshore gas industry;
- (k) partnering with other entities for the purpose of conducting research related to the onshore gas industry;
- (l) convening advisory bodies to assist the commission to perform a function mentioned in paragraphs (a) to (k).

## **8 Commission's powers**

- (1) The commission has the powers necessary or convenient to perform the commission's functions.
- (2) The commission also has the other powers given to the commission under this or another Act.

## **Division 2 Membership**

### **9 Membership of commission**

- (1) The commission consists of—
  - (a) a full-time commissioner who is the chairperson; and
  - (b) up to 6 part-time commissioners.
- (2) In deciding whom to recommend to the Governor in Council for appointment to the commission, the Minister must be satisfied—
  - (a) each person nominated for appointment is qualified under section 10; and
  - (b) the commissioners will include—
    - (i) a commissioner who represents the interests of landholders; and
    - (ii) a commissioner who represents the interests of communities in which the onshore gas industry operates; and

- (iii) a commissioner who represents the onshore gas industry.
- (3) The commissioners are to be appointed by the Governor in Council.

## **10 Eligibility for appointment as a commissioner**

A person is qualified for appointment as a commissioner if the person has qualifications or experience in any of the following—

- the onshore gas industry
- a branch of science relating to the exploration or production of petroleum, or the impact of those activities on the environment
- legal practice relevant to the exploration or production of petroleum
- negotiations between landholders and the onshore gas industry
- land management
- land valuation
- community development
- the financial and business sector.

## **11 Term of appointment**

- (1) A commissioner is appointed for the term, not longer than 3 years, stated in the commissioner's instrument of appointment.
- (2) A commissioner may be reappointed.

## **12 Conditions of appointment**

- (1) A commissioner is to be paid the remuneration and allowances decided by the Governor in Council.

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- (2) A commissioner holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.
- (3) The commissioners are appointed under this Act and not the *Public Service Act 2008*.

### **13 Resignation**

A commissioner may resign by signed notice given to the Minister.

### **14 Termination of appointment**

The Governor in Council may at any time remove a commissioner from office for any reason or none.

### **15 Leave of absence**

- (1) The Minister may grant leave to the chairperson in accordance with entitlements available to the chairperson under the chairperson's conditions of office.
- (2) The chairperson may grant leave to a part-time commissioner in accordance with entitlements available to the part-time commissioner under the part-time commissioner's conditions of office.

### **16 Acting chairperson**

- (1) The Minister may appoint a person qualified for appointment as the chairperson to act as the chairperson—
  - (a) during a vacancy in the office; or
  - (b) during any period, or all periods, when the chairperson is absent from duty or from the State or, for another reason, can not perform the duties of the office.
- (2) The chairperson may appoint a part-time commissioner to act as the chairperson during a period, of not more than 14 days,

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when the chairperson is absent from duty or from the State or, for another reason, can not perform the duties of the office.

## **17 Preservation of rights**

- (1) This section applies if—
  - (a) a person is appointed as a commissioner; and
  - (b) the person resigns the person's role as a public service officer in order to accept the appointment.
- (2) The person retains and is entitled to all rights that have accrued to the person because of the person's employment as a public service officer, or that would accrue in the future to the person because of that employment, as if service as the commissioner were a continuation of service as a public service officer.
- (3) At the end of the person's term of office or on resignation—
  - (a) the person is entitled to be appointed to an office in the public service at a salary level not less than the current salary level of an office equivalent to the office the person held before being appointed as the commissioner; and
  - (b) the person's service as the commissioner is to be regarded as service of a like nature in the public service for deciding the person's rights as a public service officer.

## **Division 3 Disclosure of interests by commissioners**

### **18 Register of interests**

- (1) The commission must keep a register of each commissioner's pecuniary interests.
- (2) The person appointed as chairperson must give the Minister and integrity commissioner—

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- (a) as soon as practicable after the person's appointment—a written summary of the person's pecuniary interests at the time of the person's appointment; and
  - (b) within 30 days after any substantial change in the person's pecuniary interests—notice of the change and an updated written summary of the person's pecuniary interests.
- (3) Each person appointed as a part-time commissioner must give the chairperson—
- (a) as soon as practicable after the person's appointment—a written summary of the person's pecuniary interests at the time of the person's appointment; and
  - (b) within 30 days after any substantial change in the person's pecuniary interests—notice of the change and an updated written summary of the person's pecuniary interests.
- (4) The register kept under subsection (1) must be updated at least once during each 12 month period of a commissioner's term of office.
- (5) In this section—
- integrity commissioner* means the Queensland Integrity Commissioner appointed under the *Integrity Act 2009*, section 6.

## **19 Disclosure of interests at commission board meetings**

- (1) This section applies to a commissioner if—
- (a) the commissioner or a close relative of the commissioner has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, at a commission board meeting; and
  - (b) the interest could conflict with the proper performance of the commissioner's functions for the matter.
- (2) As soon as practicable after the relevant facts come to the commissioner's knowledge, the commissioner must disclose

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the nature of the interest to the other commissioners at the meeting.

- (3) The commissioner may further participate in the meeting only if a majority of the other commissioners at the meeting vote in favour of the commissioner's further participation in the meeting.
- (4) However, the commissioner can not participate in any vote on the matter at the meeting.
- (5) A disclosure under subsection (2) must be recorded in the meeting's minutes.
- (6) A failure to make a disclosure under subsection (2) does not, of itself, invalidate a commission decision.
- (7) In this section—  
*close relative*, of a commissioner, means the commissioner's—
  - (a) spouse; or
  - (b) parent or grandparent; or
  - (c) brother or sister; or
  - (d) child or grandchild.

## **Division 4                      Commission board meetings**

### **20                      Commission board meetings**

The chairperson must convene a meeting of commissioners (a *commission board meeting*) at least 6 times each year.

### **21                      Purposes of commission board meetings**

The purposes of commission board meetings are to—

- (a) ensure the commission performs its functions and exercises its powers in an appropriate, effective and efficient way; and

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- (b) set the strategic priorities of the commission; and
- (c) develop plans to address key issues being considered by the commission.

## **22 Conduct of commission board meetings**

- (1) Commission board meetings are to be held at the times and places the chairperson decides.
- (2) The chairperson must preside at all commission board meetings at which the chairperson is present.
- (3) If the chairperson is absent from a commission board meeting, another commissioner chosen by the commissioners present must preside.
- (4) A quorum for a commission board meeting is the chairperson and 3 part-time commissioners.
- (5) Subject to this Act, the commission may otherwise conduct commission board meetings in the way it considers appropriate.

# **Part 3 Particular powers of the commission**

## **Division 1 Powers relating to government entities**

### **23 Power to require particular information from government entities**

- (1) The chairperson may give a government entity a written notice requesting information in the entity's possession or control that relates to—
  - (a) the onshore gas industry; and



- (b) a function of the commission.
- (2) The notice must state how, and a reasonable period of at least 10 business days by which, the information must be given.
- (3) The government entity must comply with a request made of it under subsection (1) unless—
  - (a) the information is not in its possession or control; or
  - (b) complying with the request would place the entity in contravention of a law; or
  - (c) the request relates to someone else’s confidential information and the other person has refused to consent to it being disclosed to the commissioner despite the entity’s reasonable efforts to obtain the consent.
- (4) If an exemption under subsection (3) applies to a request made of a government entity under subsection (1), the entity must inform the chairperson in writing that the exemption applies in relation to the request.

## **24 Power to require advice**

- (1) The chairperson may, by written notice, require the chief executive of a government entity to provide advice to the chairperson if the advice—
  - (a) relates to a function of the commission; and
  - (b) relates to a function of the government entity; and
  - (c) is something about which the chief executive could reasonably be able to provide advice.
- (2) The chief executive must, within a reasonable time, comply with a request made of him or her under subsection (1) unless—
  - (a) complying with the requirement would place the chief executive or entity in contravention of a law; or
  - (b) the requirement relates to someone else’s confidential information and the other person has refused to consent

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to it being disclosed to the commissioner despite the entity's reasonable efforts to obtain the consent.

- (3) If an exemption under subsection (2) applies to a request made of a chief executive under subsection (1), the chief executive must inform the chairperson in writing that the exemption applies in relation to the request.

## **25 Compulsory consultation**

- (1) A government entity that is developing policy or legislation intended to affect the onshore gas industry must consult with the commission about the proposed policy or legislation during the development.
- (2) However, while it is Parliament's intention that subsection (1) be complied with, subsection (1) is directory only and does not create rights or impose legally enforceable obligations on the State, a government entity or anyone else.
- (3) Failure to comply with subsection (1) does not affect the validity of any decision.

## **Division 2 Powers relating to landholders, onshore gas operators and other entities**

### **26 Power to require particular information from prescribed entities**

- (1) The chairperson may, by written notice, require a prescribed entity to give the chairperson—
  - (a) stated documents or information (the *relevant material*), or stated types of documents or information (also the *relevant material*), in its possession or control that the commission reasonably requires for the effective and efficient carrying out of the commission's functions; or
  - (b) access to the relevant material.

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- (2) The notice must state how, and a reasonable period by which, the relevant material, or access to the relevant material, must be given.
  - (3) An entity given a notice under subsection (1) must comply with the notice unless—
    - (a) the requirement relates to relevant material that is in someone else's possession or control and the other person has refused to give the relevant material to the entity despite the entity's reasonable efforts to obtain it; or
    - (b) complying with the requirement would place the entity in contravention of a law; or
    - (c) the requirement relates to someone else's confidential information and the other person has refused to consent to it being disclosed to the commissioner despite the entity's reasonable efforts to obtain the consent; or
    - (d) the giving of the relevant material might tend to incriminate the entity; or
    - (e) the relevant material is confidential to the entity or the giving of the relevant material might be to the detriment of the entity's commercial or other interests.

Maximum penalty—100 penalty units.

- (4) If an exemption under subsection (3) applies to a requirement made of a prescribed entity under subsection (1), the entity must inform the chairperson in writing that the exemption applies in relation to the requirement.

## **Division 3            Other**

### **27       Publishing information**

- (1) The commission may publish any information relevant to the purpose or a function of the commission.

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- (2) However, the commission must not publish any confidential information under subsection (1).

## **28 Advisory bodies**

The chairperson may establish the advisory bodies he or she considers appropriate to give the chairperson or commission—

- (a) additional or technical advice about a matter relevant to a function of the commission; or
- (b) feedback about advice the commission proposes to give the Minister or government entities.

## **29 Gasfields community leaders council**

- (1) The commission must establish a committee (the *gasfields community leaders council*) for the purpose of assisting the commission to identify issues affecting the coexistence of landholders, regional communities and the onshore gas industry in Queensland.
- (2) The gasfields community leaders council is to consist of the chairperson and other individuals that the chairperson is satisfied represent local governments, regional communities and the onshore gas industry.
- (3) The chairperson is to preside at meetings of the gasfields community leaders council.

# **Part 4 Administration**

## **30 General manager**

- (1) The commission must employ a general manager.
- (2) The general manager is employed under this Act and not under the *Public Service Act 2008*.

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- (3) The commission may at any time remove the general manager from office for any reason or none.
  - (4) Section 17 applies as if a reference to appointment as a commissioner were a reference to employment as the general manager.
  - (5) The chairperson may direct the general manager about helping the commissioners perform the commission's functions.
  - (6) The chairperson may appoint a person, other than a commissioner, to act in the office of general manager during—
    - (a) any vacancy, or all vacancies, in the office; or
    - (b) any period, or all periods, when the general manager is absent from duty, or can not, for another reason, perform the functions of the office.

### **31 Commission staff**

- (1) The commission may employ other staff it considers appropriate to perform its functions.
- (2) The other staff are to be employed under the *Public Service Act 2008*.

### **32 Alternative staffing arrangements**

- (1) The commission may, with the agreement of the chief executive of a department, a local government, a government entity or a government owned corporation, arrange for the services of officers or employees of the department, local government, entity or corporation to be made available to the commission.
- (2) An officer or employee whose services are made available under subsection (1)—
  - (a) continues to be an officer or employee of the department, local government, entity or corporation; and

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- (b) continues to be employed or otherwise engaged by the department, local government, entity or corporation on the same terms and conditions applying to the officer or employee before his or her services were made available; and
  - (c) is, for the period the services are made available and for the carrying out of the authority's functions, taken to be a member of the staff of the commission.
- (3) Nothing in subsection (1) requires a chief executive to enter into an arrangement with the commission for the services of officers or employees.

### **33 Commission not subject to outside direction**

Commissioners, the general manager and staff of the commission are not subject to direction in the performance of their duties by any person, other than from within the commission.

### **34 Annual budgets and financial management policies**

- (1) Before each 31 March—
- (a) the commission must prepare a budget—
    - (i) of estimated costs of the commission for the next financial year; and
    - (ii) consistent with the strategic priorities of the commission; and
  - (b) the commissioners must approve giving the budget and the commission's financial management policies to the Minister; and
  - (c) the commission must give the approved budget and financial management policies to the Minister.
- (2) The Minister must approve, or refuse to approve, the budget and financial management policies by each 30 April.

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- (3) However, a failure by the Minister to act under subsection (2) does not prevent the Minister approving, or refusing to approve, a budget or financial management policy at a later time.
  - (4) A budget or financial management policy has no effect until it has been approved by the Minister.
  - (5) During a financial year the commission may prepare amendments to the budget for that year.
  - (6) An amendment of a budget has no effect until it has been approved by—
    - (a) for a minor amendment—the chairperson in consultation with the part-time commissioners; or
    - (b) otherwise—the Minister on the recommendation of the chairperson in consultation with the part-time commissioners.
  - (7) If the chairperson and the part-time commissioners differ about what should be recommended to the Minister for an approval under this section, the Minister may still give the approval.
  - (8) In this section—

***financial management policies*** means the policies to be observed in financial and performance management by the commission.

*Note—*

Under the *Financial Accountability Act 2009*, section 57 the commission must comply with a provision of a financial and performance standard that applies to the commission as a statutory body.

***minor amendment***, of an annual budget, means an amendment of a minor nature that does not change the total of the estimated costs mentioned in the budget.

### **35 Annual report**

- (1) The commission must prepare and give to the Minister a written report about the operations of the commission during each financial year.
- (2) Before the report is given to the Minister the commissioners must approve the report.
- (3) The report must be given to the Minister as soon as practicable after the end of the financial year, but within a period that will allow the report to be tabled in the Legislative Assembly within 3 months after the end of the financial year to which the report relates.
- (4) Without limiting subsection (1), the commission must include in the report—
  - (a) details of the functions performed by the commission during the year; and
  - (b) financial statements for the commission for the year; and
  - (c) a description of the prosecutions, if any, undertaken by the commission during the year; and
  - (d) information about how efficiently and effectively the commission has carried out its operations, including identifying key achievements and financial and non-financial performance.
- (5) A description may include statistics.
- (6) The report must not be prepared in a way that discloses confidential information.

### **36 Delegation**

- (1) The chairperson may delegate any of the chairperson's functions to a part-time commissioner.
- (2) The commission may delegate any function of the commission to the general manager or other staff of the commission.



- (3) In this section—  
*functions* includes powers.

## **Part 5                      General offences and legal proceedings**

### **Division 1                General offences**

#### **37        False or misleading statements**

- (1) This section applies to a person who, in compliance with this Act, must provide information to the chairperson.
- (2) The person must not state anything to the chairperson that the person knows is false or misleading in a material particular.
- Maximum penalty—100 penalty units.

#### **38        False or misleading documents**

- (1) This section applies to a person who, in compliance with this Act, must provide information to the chairperson.
- (2) The person must not give the chairperson a document containing information that the person knows is false or misleading in a material particular.
- Maximum penalty—100 penalty units.
- (3) Subsection (2) does not apply to a person if the person, when giving the document—
- (a) tells the chairperson, to the best of the person's ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

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### **39 Use of confidential information**

- (1) This section applies to a person who—
  - (a) is, or has been, a commissioner, general manager or staff member of the commission; and
  - (b) obtains confidential information in administering or performing a function under this Act.
- (2) The person must not, whether directly or indirectly, disclose the confidential information unless the disclosure is—
  - (a) in the performance of functions under this Act; or
  - (b) with the consent of the person to whom the information relates; or
  - (c) otherwise required or permitted by law.

Maximum penalty—50 penalty units.

## **Division 2 Evidentiary provisions**

### **40 Summary offences**

An offence against this Act is a summary offence.

### **41 Appointments and authority**

In a proceeding, the following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment under this Act of a commissioner;
- (b) the authority of a commissioner, the general manager or staff of the commission to do anything under this Act.

### **42 Signatures**

A signature purporting to be the signature of a commissioner or the general manager is evidence of the signature it purports to be.

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### **43 Other evidentiary aids**

- (1) In a proceeding, a certificate purporting to be that of the chairperson stating any of the following matters is evidence of the matter—
  - (a) a stated document is an appointment or notice made or given under this Act;
  - (b) a stated document is a document given to the commission under this Act;
  - (c) a stated document is a copy of a document mentioned in paragraph (a) or (b);
  - (d) on a stated day, a stated requirement was made of a person.
- (2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.

### **44 Protection from liability**

- (1) A commissioner, the general manager or other staff of the commission do not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to the commissioner, general manager or staff, the liability attaches instead to the State.

### **45 Commission is a statutory body**

- (1) The commission is a statutory body under—
  - (a) the *Financial Accountability Act 2009*; and
  - (b) the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the commission's powers under this Act are affected by that Act.

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## **Part 6                      Other matters**

### **46        Regulation-making power**

The Governor in Council may make regulations under this Act.

## **Part 7                      Amendment of Acts**

### **Division 1                Amendment of this Act**

#### **47        Act amended**

This division amends this Act.

#### **48        Amendment of long title**

Long title, from ‘and to’—  
*omit.*

### **Division 2                Amendments of Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957**

#### **49        Act amended**

This division amends the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*.

#### **50        Insertion of new s 4D**

Before section 5—

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*insert—*

**‘4D Authorisation of variation by further agreement**

‘The agreement may be varied by further agreement corresponding to the proposed further agreement set out in schedule 4.’.

**51 Insertion of new sch 4**

After schedule 3—

*insert—*

**‘Schedule 4 Proposed further agreement**

section 4D

**THIS AGREEMENT** is made

**BETWEEN:STATE OF QUEENSLAND**, acting through the Department  
of Natural Resources and Mines

(‘**the State**’)

**AND: RTA WEIPA PTY LTD** ACN 137 266 285, Level 2, 443  
Queen Street, Brisbane in the State of Queensland

(‘**RTA Weipa**’)

**AND: RIO TINTO ALUMINIUM LIMITED** ACN 009 679 127,  
Level 2, 443 Queen Street, Brisbane in the State of  
Queensland

(‘**RTAL**’)

**BACKGROUND**

- A. Under section 2 of the Act, the State and RTAL entered into the Principal Agreement.

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- B. The State, RTA Weipa and RTAL have agreed to amend the Principal Agreement in accordance with the Act to include specific provisions about RTA Weipa constructing a new port in the vicinity of Boyd Point.

## AGREED TERMS

### 1. DEFINITIONS & INTERPRETATION

- 1.1 In this Agreement the following definitions apply:

‘**Act**’ means the *Commonwealth Aluminium Corporation Pty Limited Agreement Act 1957*; and

‘**Principal Agreement**’ means the agreement entered into between the State and RTAL dated 16 December 1957, as set out in Schedule 1 to the Act, which agreement has been amended from time to time.

### 2. AMENDMENT OF PRINCIPAL AGREEMENT

- 2.1 The Principal Agreement is amended as follows:

*New definitions*

- (a) The following definitions are inserted into clause 1 of the Principal Agreement:

‘**Ancillary Services**’ means services ancillary to the provision of Port Services, including services appropriate for complementing or enhancing the provision of Port Services;

‘**Boyd Area**’ means the area bounded by the lines joining Points 1 – 2 – 3 – 4 – 1, the coordinates of which are:

Point	Easting	Northing
1	558826.250	8577068.082
2	571446.778	8570357.629
3	569333.359	8566382.866
4	558939.896	8571909.169

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which coordinates are on the MGA 94 map projection Zone 54 based on the GDA 94 geodetic reference framework, as defined in Section 13 of the *Survey and Mapping Infrastructure Regulation 2004*.

**‘Boyd Port’** means a port in the Boyd Area;

**‘Boyd Port Facilities’** means the facilities relating to the Boyd Port or used or occupied or which may at any time be used or occupied in connection with the Boyd Port, including the following:

- (a) wharf and port marine operational areas and shipping channels within the Boyd Area;
- (b) marine and port structures;
- (c) berths and berth pockets;
- (d) ship building facilities and dry docks;
- (e) offshore structures used for shipping purposes;
- (f) wharf protection devices;
- (g) hydraulic structures;
- (h) bulk loading and unloading facilities;
- (i) boat harbours and boat ramps;
- (j) oil and liquid product terminals and other terminals within the Boyd Area;
- (k) access roads and rail corridors;
- (l) conveyors;
- (m) pipelines;
- (n) weighbridges;
- (o) monitoring facilities;
- (p) security facilities;
- (q) communication facilities;
- (r) material handling and disposal areas;
- (s) vehicle parking facilities;

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- (t) public, community and visitor facilities;
- (u) beacons and navigation aids;
- (v) tug berths; and
- (w) partially completed port facilities;

**‘Marine Safety Act’** means the provisions of the *Transport Operations (Marine Safety) Act 1994*;

**‘Marine Pollution Act’** means the provisions of the *Transport Operations (Marine Pollution) Act 1995*;

**‘Port Services’** means:

- (a) services relating to the establishment, operation or administration of Boyd Port;
- (b) dredging services;
- (c) monitoring and management of the movement of vessels, vehicles, goods and people in the Boyd Area;
- (d) security services and security monitoring services in the Boyd Area;
- (e) traffic control services; and
- (f) emergency services; and

**‘TIA’** means the *Transport Infrastructure Act 1994* (Qld).

*New clause 37A*

- (b) A new clause 37A is inserted as follows:

**37A.** (1) The rights conferred on the Company under this Agreement include the rights to:

- (a) survey, construct, maintain, manage, operate, use and regulate the use of the Boyd Port and the Boyd Port Facilities; and
- (b) use and occupy such part of the bauxite field or Special Bauxite Mining Lease, designated ML7024, or of the foreshore, or of any tidal land or tidal water, or the unallocated State land or any other land or waters within the Boyd Area as may



be necessary for the purposes of subclause 37A(1)(a) above.

- (2) Without limiting the Company's rights under clause 37A(1), the Company may do any of the following in respect of Boyd Port and the Boyd Port Facilities:
- (a) establish, manage, and operate effective and efficient Boyd Port Facilities and services in Boyd Port;
  - (b) provide or arrange for the provision of Ancillary Services or works necessary or convenient for the effective and efficient operations of Boyd Port and the Boyd Port Facilities;
  - (c) keep appropriate levels of safety and security in the provision and operation of the Boyd Port Facilities and Boyd Port;
  - (d) control and manage activities and conduct by ships relating to the Boyd Port, including the commercial scheduling of the movement of ships within Boyd Port or at the Boyd Port Facilities;
  - (e) provide other services incidental to the performance of its other functions or likely to enhance the Company's usage of Boyd Port and the Boyd Port Facilities;
  - (f) provide Port Services and Ancillary Services;
  - (g) dredge or otherwise maintain and improve navigational channels in the Boyd Area;
  - (h) reduce or remove a shoal, bank or accumulation in the Boyd Area that, in the Company's opinion, impedes navigation in Boyd Port;
  - (i) impose charges for the use of the Boyd Port and the Boyd Port Facilities, by reference to, for example:
    - (i) a ship using Boyd Port; or

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- (ii) goods or passengers loaded, unloaded or transhipped to or from a ship using Boyd Port;
- (j) impose charges in relation to Port Services and the Boyd Port Facilities, including in relation to:
  - (i) the acquisition, establishment, construction, improvement, operation and maintenance of the Boyd Port Facilities; or
  - (ii) works relating to the Boyd Port Facilities, including dredging and the disposal of dredged material;
- (k) determine the time within which a charge must be paid and the default interest rate if the charge is not paid before it is due;
- (l) recover the reasonable cost of moving, or taking steps to move, a ship, a vehicle or goods within Boyd Port;
- (m) recover the reasonable costs of rectifying damage to the Boyd Port Facilities caused by:
  - (i) a ship; or
  - (ii) floating or submerged material (if the damage happened because of the intentional, reckless or negligent act of the owner of the material);
- (n) decide the amount of, and require a person to give, a security deposit as security for a liability or debt incurred in relation to:
  - (i) the payment of a charge; or
  - (ii) damage caused, or that may be caused, to the Boyd Port Facilities;
- (o) appropriate or partly appropriate a security deposit to meet a liability or debt owed to the Company in relation to:
  - (i) the payment of a charge; or

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- (ii) damage caused, or that may be caused, to the Boyd Port Facilities;
  - (p) issue port notices for the Boyd Area to control activities and conduct including, for example:
    - (i) the movement or mooring of ships at the Boyd Port Facilities;
    - (ii) the movement or mooring of ships if the movement or mooring may affect the operation of Boyd Port;
    - (iii) activities by ships moored at the Boyd Port Facilities if the activities may affect the operation of Boyd Port;
    - (iv) the movement, handling or storage of goods loaded, unloaded or transhipped to or from ships at the Boyd Port Facilities; or
    - (v) the movement of persons at the Boyd Port Facilities;
  - (q) display or publish notices requiring the production of information relevant to:
    - (i) the provision or use of Port Services;
    - (ii) the calculation of charges;
    - (iii) the provision, use or preservation of the Boyd Port Facilities;
    - (iv) the management, operation, safety and efficiency of Boyd Port; or
    - (v) information requested by a Commonwealth or State entity; and
  - (r) deal with, including disposing of, abandoned property.
- (3) The Company's rights under clause 37A(1) apply despite Chapter 8 of the TIA.
- (4) A port authority will not be established under Chapter 8 of the TIA in relation to the Boyd Port.

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- (5) The rights of the Company in relation to the Boyd Port must be exercised subject to the powers of:
  - (a) the general manager under part 14A of the Marine Safety Act and under the Marine Pollution Act; and
  - (b) a harbour master under the Marine Safety Act about marine safety and navigation within the Boyd Port.
- (6) Before any powers are exercised under the Marine Safety Act or Marine Pollution Act within the Boyd Area that may affect the rights of the Company, the person entitled to exercise the power will consult with the Company to the extent reasonably practicable. Failure to comply with this clause 37A(6) does not affect the validity of the exercise of the power.
- (7) Pilotage areas and compulsory pilotage areas covering, wholly or in part, the Boyd Area or any offshore area described in subclause 37A(1)(b) above, may be declared under the Marine Safety Act.
- (8) Following a declaration referred to in clause 37A(7) above, the provisions in the Marine Safety Act and associated regulations relating to pilotage areas or compulsory pilotage areas will apply.
- (9) A harbour master may be appointed over the Boyd Area.
- (10) Port procedures or information for shipping manuals (or the like) relating to any pilotage area or compulsory pilotage area covering, wholly or in part, the Boyd Area or any offshore area described in subclause 37A(1)(b) above and issued pursuant to the powers of direction under the Marine Safety Act must be issued on the basis that the control and management of the commercial scheduling of the movement of ships using the Boyd Port or the Boyd Port Facilities remains the responsibility of the Company.
- (11) Notwithstanding section 102A of the Marine Safety Act, the Company may provide and use the pilotage services

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of persons licensed under a regulation as pilots and employed or contracted or authorised by the Company or a contractor of the Company in any pilotage area or compulsory pilotage area declared in connection with the Boyd Area or any offshore area described in subclause 37A(1)(b) above, and to that extent:

- (a) such persons are deemed to be pilots for the purposes of the Marine Safety Act; and
  - (b) the Company and its contractor (as applicable) are deemed to be the general employer of such persons for the purposes of section 101 of the Marine Safety Act.
- (12) The Company may exercise its rights under clauses 37A(1) at any time during the term of the Special Bauxite Mining Lease, designated ML7024, including any extension or renewal of it.
- (13) The Company must provide quarterly tonnage details of each commodity type shipped through the Boyd Port (both inwards or as imports and outwards or as exports) as follows:
- (a) publish in a format or manner as agreed with the State the above details for each financial quarter within the month following the publication by the Company of its quarterly operations report for the relevant financial quarter; and
  - (b) submit to the State the above details aggregated for each financial year, by 31 August of each year.
- (14) In exercising the rights under clause 37A(1), the Company will not be required to obtain a lease under the *Land Act 1994* for land within the Boyd Area but not within the area of the Special Bauxite Mining Lease, designated ML7024.
- (15) The Company will not be liable to pay royalties or similar charges for extractive material removed for the purposes of exercising the Company rights under clause 37A(2)(g) or (h) if the extractive material is:

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- (a) disposed of in the Boyd Area or another area approved by the Minister;
  - (b) disposed of under relevant statutory environmental controls; and
  - (c) not sold by the Company to a third party for commercial benefit.
- (16) Clauses 37 and 39 to 42B do not apply to the Boyd Port or the Boyd Port Facilities established pursuant to the Company's rights under clause 37A(1).
- (17) Without limiting the rights conferred by clause 37(a) of this Agreement, the Company may sublease an area within the boundary of the Special Bauxite Mining Lease, designated ML 7024, as agreed between the Company and the State, for the purposes of the construction and operation of a port and port facilities, in addition to Boyd Port, for the shipment of bauxite, provided that nothing in this clause 37A(17) is to be construed as:
- (a) the State approving or agreeing to the basis on which the sublessee will be permitted to construct, manage or operate the port or port facilities; and
  - (b) limiting or affecting any obligation or requirement for the Company to seek or obtain approval or consent to the grant of the sublease, including under section 300 of the *Mineral Resources Act 1989* or as constituting any such approval or consent.

### **3. EFFECTIVE DATE**

- 3.1 This Agreement comes into effect on and from the date notified by the Minister (being the Minister for the State of Queensland responsible for the administration of the Act) in the Government Gazette or, if no date is specified, on the date of the gazettal.

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#### 4. GENERAL

- 4.1 **Costs:** Each party will bear its own legal costs in relation to the preparation, execution and performance of this Agreement.
- 4.2 **No Variation:** This Agreement will only be varied by written agreement signed by both parties.
- 4.3 **Compliance with laws:** In performing their respective obligations and exercising their respective rights, the parties will comply with all applicable laws and regulations.
- 4.4 **Further assistance:** Each party will do all things reasonably required or requested by the other party to give effect to this Agreement and to enable that other party to enjoy the rights and benefits conferred on it by this Agreement.
- 4.5 **Governing law:** This Agreement is governed by the laws of Queensland and the parties submit to the jurisdiction of the courts of Queensland.
- 4.6 **Counterparts:** This Agreement may be executed in one or more counterparts, and any such counterparts taken together form one instrument. Execution by fax counterparts is acceptable.

#### EXECUTED AS AN AGREEMENT

**SIGNED** for and on behalf of the **STATE OF )**  
**QUEENSLAND**, acting through the ) .....  
Department of Natural Resources and Mines ) (*signature*)  
by ..... (name)  
..... (title),  
a duly authorised person, in the presence of: ) ..... / ..... / 2013  
*(date)*

.....  
(signature of witness)

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.....  
(full name of witness)

**SIGNED** for and on behalf of **RTA WEIPA** ) .....

**PTY LTD** ACN 137 266 285 ) (director)

in accordance with s 127 of the *Corporations* )

*Act 2001* (Cth) by)

..... (name) ) .....

and ..... (name) ) (director/secretary)

..... / ..... / 2013

(date)

**SIGNED** for and on behalf of **RIO TINTO** ) .....

**ALUMINIUM PTY LTD** ACN 009 679 127 ) (director)

in accordance with s 127 of the *Corporations* )

*Act 2001* (Cth) by )

..... (name) ) .....

and ..... (name) ) (director/secretary)

in the presence of: )

..... / ..... / 2013

(date)'.  
.....



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## Schedule 1      Dictionary

### section 5

***chairperson*** means the person appointed as chairperson under section 9.

***commission*** means the Gasfields Commission established under section 6.

***commission board meeting*** see section 20.

***commissioner*** means a person appointed under section 9 as either the chairperson or a part-time commissioner.

***confidential information***—

- (a) means any information that—
  - (i) could identify an individual; or
  - (ii) is about a person's current financial position or financial background; or
  - (iii) would be likely to damage the commercial activities of a person to whom the information relates; but
- (b) does not include—
  - (i) information that is publicly available; or
  - (ii) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates.

***general manager*** means the person appointed as general manager under section 30.

***government entity*** see the *Public Service Act 2008*, section 24.

***landholder*** means an entity that holds either a freehold or leasehold interest in land within Queensland.

***onshore gas industry*** means the businesses that—

- (a) carry out the exploration or production of petroleum, within the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, on land within Queensland (other than submerged land); or
- (b) carry out the transportation of petroleum, within Queensland, using a pipeline with the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, section 16.

***onshore gas operator*** means an entity that—

- (a) carries out the exploration or production of petroleum, within the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, on land within Queensland (other than submerged land); or
- (b) carries out the transportation of petroleum, within Queensland, using a pipeline with the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*, section 16.

***petroleum*** see the *Petroleum and Gas (Production and Safety) Act 2004*, section 10.

***prescribed entity*** means—

- (a) a landholder; or
- (b) an onshore gas operator; or
- (c) a company engaged under a written agreement to carry out work, on behalf of an onshore gas operator, that relates to the exploration or production of petroleum.