



Queensland

Mineral Resources and Other Legislation Amendment Act 2005

Act No. 8 of 2005



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Queensland

Mineral Resources and Other Legislation Amendment Act 2005

Act No. 8 of 2005

An Act to amend the *Mineral Resources Act 1989*, and for other purposes

[Assented to 18 March 2005]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Mineral Resources and Other Legislation Amendment Act 2005*.

Part 2 Amendment of Mineral Resources Act 1989

2 Act amended in pt 2 and schedule

This part and the schedule amend the *Mineral Resources Act 1989*.

3 Replacement of s 72 (Mining registrar to fix hearing date)

Section 72—

omit, insert—

‘72 Referral to tribunal of application and objections

‘(1) This section applies if a properly made objection to an application for the grant of a mining claim is lodged.

‘(2) The mining registrar must, within 5 business days after the later of the following, refer the application and all properly made objections to it to the tribunal for hearing—

(a) the last objection day for the application;

(b) the day a section 65 conference about the application ends.

- ‘(3) The tribunal must fix a date for the hearing and immediately give written notice of the date to each of the following—
- (a) the mining registrar;
 - (b) the applicant;
 - (c) each person who has lodged a properly made objection to the application.
- ‘(4) The hearing date must be at least 20 business days after the later of the following—
- (a) the last objection day for the application;
 - (b) the day a section 65 conference about the application ends.
- ‘(5) If the tribunal fixes a date for the hearing and all properly made objections are withdrawn before the hearing starts, the tribunal may remit the matter to the mining registrar.
- ‘(6) In this section—
- properly made objection* means an objection lodged as required under section 71(1) to (3) and for which section 71(4) has been complied with.’.

4 Replacement of ss 75 and 76

Sections 75 and 76—

omit, insert—

‘75 Referral to tribunal of application to which no objection lodged

- ‘(1) Despite section 74, the mining registrar may refer an application for the grant of a mining claim to the tribunal for hearing.
- ‘(2) The tribunal must fix a date for the hearing and immediately give written notice of the date to each of the following—
- (a) the mining registrar;
 - (b) the applicant;
 - (c) the EPA administering authority.

- ‘(3) The date must be at least 20 business days after the later of the following—
- (a) the last objection day for the application;
 - (b) the day a section 65 conference about the application ends.

‘76 Referral to tribunal of issue of reserve owner’s consent

- ‘(1) This section applies if the mining registrar is not satisfied an owner of a reserve consented to an application for a mining claim over the reserve.
- ‘(2) The mining registrar must, within 5 business days after the later of the following, refer the issue of consent to the tribunal for its consideration—
- (a) the last objection day for the application;
 - (b) the day a section 65 conference about the application ends.
- ‘(3) The tribunal must fix a date for the hearing and immediately give written notice of the date to each of the following—
- (a) the mining registrar;
 - (b) the applicant;
 - (c) the EPA administering authority;
 - (d) the owner of the reserve.
- ‘(4) The date must be at least 20 business days after the later of the following—
- (a) the last objection day for the application;
 - (b) the day a section 65 conference about the application ends.’.

5 Amendment of s 81 (Conditions of mining claim)

Section 81(1)(m), ‘the provisions of this Act’—

omit, insert—

‘this Act and other mining legislation’.

6 Amendment of s 85 (Compensation to be settled before granting of mining claim)

(1) Section 85, heading, ‘granting’—

omit, insert—

‘grant or renewal’.

(2) Section 85(6)—

omit.

(3) Section 85(7), after ‘subsection (5)’—

insert—

‘, or the referral of a matter under section 85A(2),’.

(4) Section 85(8)(c) and (d), after ‘grant’—

insert—

‘or renewal’.

7 Insertion of new s 85A

After section 85—

insert—

‘85A Referral to tribunal of issue of compensation if not settled within 3 months after term of claim ends

‘(1) Subsection (2) applies if—

(a) compensation is to be determined under section 85(1)(a) for the renewal of a mining claim; and

(b) the compensation is not determined within 3 months after the current term of the claim would, apart from section 93A, end.

‘(2) The mining registrar must refer the issue of compensation to the tribunal for its determination.

- ‘(3) The tribunal must fix a date for the hearing and immediately give written notice of the date to each of the following—
- (a) the mining registrar;
 - (b) the applicant;
 - (c) each of the land owners involved in the determination under section 85(1).
- ‘(4) The date must be at least 20 business days after the day the tribunal fixes the date.’.

8 Amendment of s 93 (Renewal of mining claim)

- (1) Section 93(3)(c), ‘all the provisions of this Act’—
omit, insert—
‘this Act and other mining legislation’.
- (2) Section 93(6) and (7)—
omit.
- (3) Section 93(9), ‘28 days’—
omit, insert—
‘20 business days’.

9 Insertion of new ss 93A–93D

after section 93—
insert—

‘93A Continuation of claim while application being dealt with

- ‘(1) Subsection (2) applies if—
- (a) a properly made application for renewal of a mining claim is not withdrawn, refused or granted before the claim’s expiry day ends; and
 - (b) after the expiry day, the holder—
 - (i) continues to pay rental on the claim and other amounts required to be paid under this Act; and

- (ii) otherwise complies with this Act and the claim conditions.
- ‘(2) The claim continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until the application is withdrawn, refused or granted.
- ‘(3) In this section—
properly made application, for renewal of a mining claim, means an application that complies with section 93(2).

‘93B When term of renewed claim starts

- ‘(1) If a mining claim is renewed before its expiry day ends, the term of the renewed claim starts on the day after the expiry day.
- ‘(2) If the claim is renewed after the expiry day, the term of the renewed claim is taken to have started on the day after the expiry day.

‘93C When new conditions of renewed claim start

- ‘(1) If a renewed mining claim is subject to conditions (the *new conditions*) different from, or not included in, the claim conditions applying immediately before its renewal, the new conditions apply from the later of the following—
 - (a) the start of the term of the renewed claim;
 - (b) the day the renewal is granted.
- ‘(2) However, if the claim is continued in force under section 93A, the holder must pay rental on the claim from the day after its expiry day at the rate that would have been payable, from time to time, if the renewed mining claim had been renewed on the day after the expiry day.
- ‘(3) Subsection (2) applies even though payment of rental may be a condition of the claim.

‘93D Renewal of claim must be in name of last recorded assignee

- ‘(1) This section applies if an assignment of a mining claim is approved and recorded under section 96(6)—
- (a) after the date on which an application for renewal of the claim is made; and
 - (b) before the application is decided by the Minister.
- ‘(2) Any renewal granted on the application must be in the name of the assignee under the last assignment approved and recorded before the grant of the renewal.’.

10 Amendment of s 125 (Variation of access to mining claim land)

- (1) Section 125(3), from ‘thereto’—
omit, insert—
‘to the use, the mining registrar must refer the issue of consent to the tribunal for its consideration.’.
- (2) Section 125(4)—
omit, insert—
- ‘(4) The tribunal must fix a date for the hearing and immediately give written notice of the date to each of the following—
- (a) the mining registrar;
 - (b) the applicant;
 - (c) the land owner.
- ‘(4A) The date must be at least 20 business days after the day the tribunal fixes the date.’.

11 Amendment of s 133 (Application for exploration permit)

- Section 133—
insert—
- ‘(4) In this section—

financial resources, for subsection (1)(g)(ii), includes the financial resources necessary to comply with each of the following—

- (a) the native title provisions;
- (b) any registered indigenous land use agreement under the Commonwealth Native Title Act for the area to which the application relates;
- (c) the right to negotiate provisions.’.

12 Amendment of s 137 (Grant of exploration permit)

(1) Section 137(3)—

insert—

‘(h) the programs of works and studies to be carried out under the permit.’.

(2) Section 137(4), from ‘Acts,’ to ‘1994’—

omit, insert—

‘Acts or other mining legislation’.

13 Replacement of s 138 (Rental payable under exploration permit)

Section 138—

omit, insert—

‘138 Rental payable on exploration permit

‘(1) On the grant of an exploration permit (the *original permit*), rental is payable—

- (a) for the first year of the term of the permit (its *first rental period*); and
- (b) within 20 business days after the grant.

‘(2) On the renewal of an exploration permit, rental is payable—

- (a) for the first year of the term of the renewed permit; and
- (b) within 20 business days after the renewal is granted.

- ‘(3) For each year an exploration permit is in force, rental for the whole year (other than its first rental period) is payable on or before the anniversary of—
- (a) for an original permit—the grant of the permit; or
 - (b) for a renewed permit—the day the term of the renewed permit started.¹
- ‘(4) The amount of the rental payable for each year is calculated by multiplying the number of sub-blocks to which the permit applies by the amount prescribed under a regulation for the year.’.

14 Amendment of s 139 (Periodic reduction in land covered by exploration permit for mineral other than coal)

- (1) Section 139, heading, ‘for mineral other than coal’—
omit.
- (2) Section 139(1)—
omit, insert—
- ‘(1) Unless the Minister otherwise decides, whether before the grant of an exploration permit or during its term the area of the permit must be reduced—
- (a) for a permit for a mineral other than coal—
 - (i) by 50% by the end of the first 2 years after the permit is granted; and
 - (ii) by a further 50% by the end of each subsequent year; or
 - (b) for a permit for coal—in the way and to the extent decided by the Minister when the permit is granted or renewed.
- ‘(1A) The reduction under subsection (1)(b) must not be greater than the extent to which a permit for other minerals must be reduced.’.
- (3) Section 139(4), ‘28 days’—

¹ See section 147D (When term of renewed permit starts)

omit, insert—

‘20 business days’.

15 Replacement of s 140 (Periodic reduction in land covered by exploration permit for coal)

Section 140—

omit, insert—

‘140 Voluntary reduction in land covered by exploration permit

- ‘(1) In addition to the requirement under section 139 to reduce the area of an exploration permit, the holder of the permit may, at any time during its term, make a submission to the chief executive—
- (a) voluntarily reducing the area of land to which the permit applies; and
 - (b) identifying the sub-blocks of land to which the holder no longer wants the permit to apply.
- ‘(2) The area remaining after the reduction must consist of whole sub-blocks.
- ‘(3) The Minister may approve the reduction, with or without conditions, or refuse the reduction.
- ‘(4) If the Minister approves the reduction, the Minister must give the holder a written notice stating—
- (a) the reduction is approved; and
 - (b) the date of the approval; and
 - (c) if the Minister decides to approve the reduction on conditions—the conditions and reasons for the decision.
- ‘(5) If the Minister refuses the reduction, the Minister must give the holder a written notice stating the reasons for the decision.
- ‘(6) The reduction takes effect on the date it is approved.
- ‘(7) Compensation is not payable for the reduction.

- ‘(8) The chief executive must, within 5 business days after the reduction takes effect, give the EPA administering authority written notice of the reduction.’.

16 Amendment of s 141 (Conditions of exploration permit)

Section 141(1)(h), ‘the provisions of this Act’—

omit, insert—

‘this Act and other mining legislation’.

17 Amendment of s 144 (Provision of security)

- (1) Section 144(1), ‘matters outlined in section 133(g)(i),²⁸ shall’—

omit, insert—

‘program of work, or activities, proposed to be carried out under the permit, must’.

- (2) Section 144(8), ‘28 days’—

omit, insert—

‘20 business days’.

18 Replacement of s 147 (Renewal of exploration permit)

- (1) Section 147—

omit, insert—

‘147 Application for renewal of exploration permit

- ‘(1) The holder of an exploration permit may, within the renewal period, apply to the chief executive for a renewal of the permit.

- ‘(2) The application must be made in the approved form and accompanied by the information and the fee prescribed under a regulation.

- ‘(3) In this section—

renewal period means the period that is—

- (a) at least 3 months, or any shorter period allowed by the Minister in the particular case, before the current term of the permit expires; and
- (b) not more than 6 months before the current term expires.

‘147A Decision on application

- ‘(1) The Minister may renew an exploration permit if the Minister is satisfied of each of the following—
 - (a) the holder of the permit has—
 - (i) observed and performed all the covenants and conditions applying to the permit and required to be observed and performed by the holder; and
 - (ii) complied with this Act in relation to the permit;
 - (b) the activities proposed to be carried out during the renewed term are appropriate and acceptable;
 - (c) the financial and technical resources available to the holder to carry out the proposed activities during the renewed term are appropriate;
 - (d) the public interest will not be adversely affected by the renewal.
- ‘(2) The renewal may be granted for the further term of not more than 5 years decided by the Minister.
- ‘(3) The renewed permit is subject to—
 - (a) any conditions prescribed under a regulation; and
 - (b) any conditions decided by the Minister.
- ‘(4) The Minister may refuse to renew the permit if the Minister—
 - (a) has served on the holder a notice in the approved form asking the holder to show cause, within the period stated in the notice, why the renewal should not be refused; and
 - (b) after considering the holder’s response, is satisfied the renewal should be refused.

- ‘(5) As soon as practicable after deciding the application for the renewal, the Minister must give the holder a written notice stating—
- (a) the decision; and
 - (b) if the decision is to grant the renewal on conditions, or to refuse the renewal, the reasons for the decision.

‘147B Chief executive must give copy of application to EPA administering authority

‘If the Minister renews an exploration permit, the chief executive must give the EPA administering authority a copy of the application for the renewal within 5 business days after the Minister is satisfied of the matters mentioned in section 147A(1) concerning the permit.

‘147C Continuation of permit while application being dealt with

- ‘(1) Subsection (2) applies if—
- (a) a properly made application for renewal of an exploration permit is not withdrawn, refused or granted before the permit’s expiry day ends; and
 - (b) after the expiry day, the holder—
 - (i) continues to pay rental on the permit and other amounts required to be paid under this Act; and
 - (ii) otherwise complies with this Act and the permit conditions.
- ‘(2) The permit continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until the application is withdrawn, refused or granted.
- ‘(3) In this section—
- properly made application***, for renewal of an exploration permit, means an application that complies with section 147(2).

‘147D When term of renewed permit starts

- ‘(1) If an exploration permit is renewed before its expiry day ends, the term of the renewed permit starts on the day after the expiry day.
- ‘(2) If the permit is renewed after the expiry day, the term of the renewed permit is taken to have started on the day after the expiry day.

‘147E When new conditions of renewed permit start

- ‘(1) If a renewed exploration permit is subject to conditions (the *new conditions*) different from, or not included in, the permit conditions applying immediately before its renewal, the new conditions apply from the later of the following—
 - (a) the start of the term of the renewed permit;
 - (b) the day the renewal is granted.
- ‘(2) However, if the permit is continued in force under section 147C, the holder must pay rental on the permit from the day after its expiry day at the rate that would have been payable, from time to time, if the renewed exploration permit had been renewed on the day after the expiry day.
- ‘(3) Subsection (2) applies even though payment of rental may be a condition of the permit.
- ‘(4) If the application for renewal of the permit is withdrawn or is refused, the chief executive must refund the overpaid rental to the applicant.
- ‘(5) In this section—

overpaid rental means the annual rental overpaid because of the withdrawal or refusal, worked out proportionately for the whole months remaining after the withdrawal or refusal until the end of the year for which the rental was paid.

‘147F Renewal of permit must be in name of last recorded assignee

- ‘(1) This section applies if an assignment of an exploration permit is approved and recorded under section 151(5)—

- (a) after the date on which an application for renewal of the permit is made; and
 - (b) before the application is decided by the Minister.
- ‘(2) Any renewal granted on the application must be in the name of the assignee under the last assignment approved and recorded before the grant of the renewal.’.

19 Amendment of s 159 (Abandonment of application for exploration permit)

- (1) Section 159(1), ‘his or her application’—
omit, insert—
‘the application in relation to all or part of the land to which it relates’.
- (2) Section 159—
insert—
- ‘(2A) If the application is abandoned in relation to part only of the land to which it relates, the application must be amended to identify the area in relation to which the application is to remain in force (the *remaining area*).
- ‘(2B) The remaining area must be identified in the way required under section 133(1)(d).²’.

20 Amendment of s 163 (Notice of entry to be given)

- (1) Section 163(2), ‘7 days’—
omit, insert—
‘5 business days’.
- (2) Section 163(8), from ‘must’—
omit, insert—
‘must—
- (a) make an appropriate endorsement on the permit; and

² Section 133 (Application for exploration permit)

- (b) ask the chief executive to make an appropriate note in the register’.

21 Amendment of s 187 (Holder to notify owners of land of grant)

- (1) Section 187, after ‘grant’—

insert—

‘or renewal’.

- (2) Section 187, ‘21 days’—

omit, insert—

‘20 business days’.

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

- (1) Section 189(1), after ‘application’—

insert—

‘in relation to all or part of the land to which it relates’.

- (2) Section 189—

insert—

‘(2A) If the application is abandoned in relation to part only of the land to which it relates, the application must be amended to identify the area in relation to which the application is to remain in force (the *remaining area*).

‘(2B) The remaining area must be identified in the way required under section 183(1)(d) and (e).³’.

23 Amendment of s 194 (Conditions of mineral development licence)

Section 194(1)(h), ‘the provisions of this Act’—

3 Section 183 (Application for mineral development licence)

omit, insert—

‘this Act and other mining legislation’.

24 Replacement of s 197 (Renewal of mineral development licence)

Section 197—

omit, insert—

‘197 Application for renewal of mineral development licence

‘(1) The holder of a mineral development licence may, within the renewal period, apply to the Minister for a renewal of the licence.

‘(2) The application must be made in the approved form and accompanied by the information and the fee prescribed under a regulation.

‘(3) In this section—

renewal period means the period that is—

- (a) at least 6 months, or any shorter period allowed by the Minister in the particular case, before the current term of the permit expires; and
- (b) not more than 1 year before the current term expires.

‘197A Decision on application

‘(1) The Minister may renew a mineral development licence if the Minister is satisfied of each of the following—

- (a) the holder of the licence has complied with—
 - (i) the licence; and
 - (ii) this Act in relation to the licence;
- (b) there exists on or in the land in relation to which the application is made a mineral occurrence of possible economic potential to sustain a mining operation;
- (c) the activities proposed to be undertaken during the renewed term are appropriate;

- (d) the financial and technical resources available to the holder to carry out the proposed activities during the renewed term are appropriate;
 - (e) the public interest will not be adversely affected by the renewal.
- ‘(2) The renewal may be granted for the further term of not more than 5 years decided by the Minister.
- ‘(3) The renewed licence is subject to—
- (a) any conditions prescribed under a regulation; and
 - (b) any conditions decided by the Minister, for the licence.
- ‘(4) The Minister may refuse to renew the licence if the Minister—
- (a) has served on the holder a notice in the approved form asking the holder to show cause, within the period stated in the notice, why the renewal should not be refused; and
 - (b) after considering the holder’s response, is satisfied the renewal should be refused.
- ‘(5) As soon as practicable after deciding the application for the renewal, the Minister must give the holder a written notice stating—
- (a) the decision; and
 - (b) if the decision is to grant the renewal on conditions, or to refuse the renewal, the reasons for the decision.

‘197B Chief executive must give copy of application to EPA administering authority

‘If the Minister renews a mineral development licence, the chief executive must give the EPA administering authority a copy of the application for the renewal within 5 business days after the Minister is satisfied of the matters mentioned in section 197A(1) concerning the licence.

‘197C Continuation of licence while application being dealt with

- ‘(1) Subsection (2) applies if—
- (a) a properly made application for renewal of a mineral development licence is not withdrawn, refused or granted, before its expiry day ends; and
 - (b) after the expiry day, the holder—
 - (i) continues to pay rental on the licence and other amounts required to be paid under this Act; and
 - (ii) otherwise complies with this Act and the licence conditions.
- ‘(2) The licence continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until the application is withdrawn, refused or granted.
- ‘(3) In this section—
- properly made application*, for renewal of a mineral development licence, means an application that complies with section 197(2).

‘197D When term of renewed licence starts

- ‘(1) If a mineral development licence is renewed before its expiry day ends, the term of the renewed licence starts on the day after the expiry day.
- ‘(2) If the licence is renewed after the expiry day, the term of the renewed licence is taken to have started on the day after the expiry day.

‘197E When new conditions of renewed licence start

- ‘(1) If a renewed mineral development licence is subject to conditions (the *new conditions*) different from, or not included in, the licence conditions applying immediately before its renewal, the new conditions apply from the later of the following—

- (a) the start of the term of the renewed licence;
 - (b) the day the renewal is granted.
- ‘(2) However, if the licence is continued in force under section 197C, the holder must pay rental on the licence from the day after its expiry day at the rate that would have been payable, from time to time, if the renewed mineral development licence had been renewed on the day after the expiry day.
- ‘(3) Subsection (2) applies even though payment of rental may be a condition of the licence.

‘197F Renewal of licence must be in name of last recorded assignee

- ‘(1) This section applies if an assignment of a mineral development licence is approved and recorded under section 198(6)—
- (a) after the date on which an application for renewal of the licence is made; and
 - (b) before the application is decided by the Minister.
- ‘(2) Any renewal granted on the application must be in the name of the assignee under the last assignment approved and recorded before the grant of the renewal.’.

25 Amendment of s 245 (Application for grant of mining lease)

Section 245(1)(n)—
omit.

26 Replacement of ss 248 and 249

Sections 248 and 249—
omit, insert—

‘248 Applicant must obtain consent or views of existing authority holders

- ‘(1) This section applies if a person applies for a mining lease over land—
- (a) covered by an existing exploration permit, mineral development licence or mining lease (the *existing authority*) held by someone else; or
 - (b) covered by, or in the area of, an existing geothermal exploration permit (also the *existing authority*) held by someone else.
- ‘(2) The applicant must obtain the existing authority holder’s written consent to the application if the lease applied for is over land covered by the existing authority and is for—
- (a) the same minerals as the existing authority; or
 - (b) a purpose mentioned in section 234(1)(b).
- ‘(3) The applicant must obtain the existing authority holder’s written views on the application if—
- (a) the existing authority is an existing authority mentioned in subsection (1)(a) and the lease applied for is for different minerals to those covered by the existing authority; or
 - (b) the existing authority is a geothermal exploration permit and the lease applied for is over land covered by, or in the area of, the existing authority.
- ‘(4) If the existing authority holder’s consent required under subsection (2) is not lodged with the mining registrar before the last objection day for the application ends, the application can not be granted.
- ‘(5) If the existing authority holder’s views required under subsection (3) are not lodged with the mining registrar before the last objection day for the application ends, the applicant must lodge with the mining registrar before the last objection day ends a statutory declaration stating why the applicant can not obtain the views.

‘249 Later applicant must obtain consent or views of earlier applicant if same land affected

- ‘(1) This section applies if—
- (a) a person (the *earlier applicant*) makes an application to the chief executive for an exploration permit, geothermal exploration permit, mineral development licence or mining lease over land; and
 - (b) someone else (the *later applicant*) makes a later application to the mining registrar for a mining lease over, or in the area of, land covered by the earlier application.
- ‘(2) The later applicant must obtain the earlier applicant’s written consent to the later application if the lease applied for in the later application is over land covered by the earlier application and for—
- (a) the same minerals as the earlier application; or
 - (b) a purpose mentioned in section 234(1)(b).
- ‘(3) The later applicant must obtain the earlier applicant’s written views on the later application if—
- (a) the earlier application is for a mining tenement mentioned in subsection (1)(a) and the lease applied for in the later application is over land covered by the earlier application and for different minerals to those covered by the earlier application; or
 - (b) the earlier application is for a geothermal exploration permit and the lease applied for in the later application is over, or in the area of, land covered by the earlier application.
- ‘(4) The consent or views may be lodged with the mining registrar before the earlier application is decided.
- ‘(5) However, if the earlier application is decided by the grant of the permit, licence or lease applied for, the consent or views must be lodged with the mining registrar within 20 business days after the permit, licence or lease is granted.
- ‘(6) The mining registrar must not deal with the later application until the earlier application is finally decided unless—

- (a) if the later application is for a lease mentioned in subsection (2)—the earlier applicant’s consent is lodged with the mining registrar; or
 - (b) if the later application is for a lease over, or in the area of, land covered by an earlier application for a geothermal exploration permit—
 - (i) the earlier applicant’s views are lodged with the mining registrar; and
 - (ii) the earlier applicant does not oppose the later application.
- ‘(7) In this section—
application, for a geothermal exploration permit, means a tender for the permit.’.

27 Replacement of s 265 (Mining registrar to fix hearing date)

Section 265—

omit, insert—

‘265 Referral of application and objections to tribunal

- ‘(1) The mining registrar must, within 5 business days after the last objection day for the application, refer the application and all properly made objections to it to the tribunal for hearing.
- ‘(2) The tribunal must fix a date for the hearing and immediately give written notice of the date to each of the following—
 - (a) the mining registrar;
 - (b) the applicant;
 - (c) the EPA administering authority;
 - (d) each person who has lodged a properly made objection to the application.
- ‘(3) The hearing date must be at least 20 business days after the later of the following—
 - (a) the last objection day for the application;

(b) the day a section 254 conference about the application ends.

‘(4) In this section—

properly made objection means an objection lodged in accordance with section 260.’.

28 Amendment of s 269 (Tribunal’s recommendation on hearing)

Section 269(4)(d), ‘shape; and’—

omit, insert—

‘shape in relation to—

- (i) the matters mentioned in paragraphs (b) and (c); and
- (ii) the type and location of the activities proposed to be carried out under the lease and their likely impact on the surface of the land; and’.

29 Replacement of s 272 (Minister may remit to tribunal for additional evidence)

Section 272—

omit, insert—

‘272 Minister may remit to tribunal for additional evidence

‘(1) This section applies if the Minister, under section 271(1)(c), directs the tribunal to hold a hearing about an application for the grant of a mining lease.

‘(2) The tribunal must fix a date for the hearing and immediately give written notice of the date to each of the following—

- (a) the mining registrar;
- (b) the applicant;
- (c) each person who has lodged an objection to the application in accordance with section 260.

‘(3) The date must be at least 20 business days after the day the tribunal fixes the date.’.

30 Amendment of s 276 (Conditions of mining lease)

Section 276(1)(1), ‘the provisions of this Act’—

omit, insert—

‘this Act and other mining legislation’.

31 Insertion of new s 279A

After section 279—

insert—

‘279A Referral to tribunal of issue of compensation if not settled within 3 months after term of lease ends

‘(1) Subsection (2) applies if—

- (a) compensation is to be determined under section 279(1)(a) for the renewal of a mining lease; and
- (b) the compensation is not determined within 3 months after the current term of the lease would, apart from section 286C, end.

‘(2) The mining registrar must refer the issue of compensation to the tribunal for its determination.

‘(3) The tribunal must fix a date for the hearing and immediately give written notice of the date to each of the following—

- (a) the mining registrar;
- (b) the applicant;
- (c) each of the land owners involved in the determination under section 279(1).

‘(4) The date must be at least 20 business days after the day the tribunal fixes the date.

‘(5) The tribunal may hear and determine the matter as if the referral were an application made under section 281.’.

32 Replacement of s 286 (Renewal of mining lease)

Section 286—

omit, insert—

‘286 Application for renewal of mining lease

- ‘(1) The holder of a mining lease, including a lease subject to a condition mentioned in section 285, may, within the renewal period, apply to the mining registrar for a renewal of the lease.
- ‘(2) The application must be made in the approved form and accompanied by the information and the fee prescribed under a regulation.
- ‘(3) In this section—
renewal period means the period that is—
 - (a) at least 6 months, or any shorter period allowed by the Minister in the particular case, before the current term of the lease expires; and
 - (b) not more than 1 year before the current term expires.

‘286A Decision on application

- ‘(1) Subject to part 17, division 5,⁴ the Governor in Council may grant an application for the renewal of a mining lease if the Minister is satisfied of each of the following—
 - (a) the holder has complied with—
 - (i) the terms of the lease; and
 - (ii) this Act in relation to the lease;
 - (b) the land the subject of the lease—
 - (i) still contains workable quantities of mineral or mineral bearing ore; or
 - (ii) is otherwise required for purposes for which the lease was granted;
 - (c) the proposed term of the renewed lease is appropriate;
 - (d) having regard to the current and prospective uses of the land comprised in the lease, the operations to be carried on during the renewed term of the lease—

⁴ Part 17 (Native title provisions for mining leases), division 5 (Renewals of mining leases)

- (i) are an appropriate land use; and
 - (ii) will conform with sound land use management;
 - (e) the land and surface area for which the renewal is sought is of an appropriate size and shape in relation to the activities proposed to be carried out;
 - (f) the financial and technical resources available to the holder to carry on mining operations under the renewed lease are appropriate;
 - (g) the public interest will not be adversely affected by the renewal;
 - (h) for a lease subject to a condition mentioned in section 285—the lease should be renewed.
- ‘(2) If the application is for a lease subject to a condition mentioned in section 285, the Minister must advise the Governor in Council of the fact.
- ‘(3) The renewal may be granted for the further term, decided by the Governor in Council, that is not longer than the period for which compensation has been agreed or determined under section 279, 281 or 282.
- ‘(4) The renewed lease is subject to—
- (a) any conditions prescribed under a regulation; and
 - (b) any conditions decided by the Governor in Council.
- ‘(5) The Minister may refuse the application if the Minister—
- (a) has served on the holder a notice in the approved form asking the holder to show cause, within the period stated in the notice, why the application should not be refused; and
 - (b) after considering the holder’s response, is satisfied the application should be refused.
- ‘(6) As soon as practicable after deciding the application, the Minister must give the holder a written notice stating—
- (a) the decision; and

- (b) if the decision is to recommend the grant of the renewal on conditions, or to refuse to recommend the grant of the renewal, the reasons for the decision.

‘286B Chief executive must give copy of application to EPA administering authority

‘If the Minister approves an application for renewal of a mining lease, the chief executive must give the EPA administering authority a copy of the application within 5 business days after the Minister is satisfied of the matters mentioned in section 286A(1) concerning the lease.

‘286C Continuation of lease while application being dealt with

- ‘(1) Subsection (2) applies if—
 - (a) a properly made application for renewal of a mining lease is not withdrawn, refused or granted before the lease’s expiry day ends; and
 - (b) after the expiry day, the holder—
 - (i) continues to pay rental on the lease and other amounts required to be paid under this Act; and
 - (ii) otherwise complies with this Act and the lease conditions.
- ‘(2) The lease continues in force subject to the rights, entitlements and obligations in effect immediately before the end of the expiry day until the application is withdrawn, refused or granted.

‘286D When term of renewed lease starts

- ‘(1) If a mining lease is renewed before its expiry day ends, the term of the renewed lease starts on the day after the expiry day.
- ‘(2) If the lease is renewed after the expiry day, the term of the renewed lease is taken to have started on the day after the expiry day.

‘286E When new conditions of renewed lease start

- ‘(1) If a renewed mining lease is subject to conditions (the *new conditions*) different from, or not included in, the lease conditions applying immediately before its renewal, the new conditions apply from the later of the following—
- (a) the start of the term of the renewed lease;
 - (b) the day the renewal is granted.
- ‘(2) However, if the lease is continued in force under section 286C, the holder must pay rental on the lease from the day after its expiry day at the rate that would have been payable, from time to time, if the renewed mining lease had been renewed on the day after the expiry day.
- ‘(3) Subsection (2) applies even though payment of rental may be a condition of the lease.

‘286F Renewal of lease must be in name of last recorded assignee

- ‘(1) This section applies if an assignment of a mining lease is approved and recorded under section 300(8)—
- (a) after the date on which an application for renewal of the lease is made; and
 - (b) before the application is disposed of by the Minister.
- ‘(2) Any renewal granted on the application must be in the name of the assignee under the last assignment approved and recorded before the grant of the renewal.’.

33 Amendment of s 288 (Holder to notify owner of grant or renewal of mining lease)

- (1) Section 288(2), ‘28 days’—
omit, insert—
‘20 business days’.
- (2) Section 288—
insert—

- ‘(3) If the lease is for a purpose mentioned in section 234(1)(b),⁵ the reference in subsection (1) to the owner of land includes the holder of an exploration permit, mineral development licence or mining lease over the land.’

34 Omission of s 315 (Approval of additional activities upon mining lease application)

Section 315—

omit.

35 Amendment of s 316 (Mining lease for transportation through land)

- (1) Section 316(1), after ‘holds’—

insert—

‘, or is an applicant for.’

- (2) Section 316(1)(a), after ‘transport’—

insert—

‘, or road’.

- (3) Section 316(4), ‘7 days’—

omit, insert—

‘5 business days’.

36 Amendment of s 317 (Variation of access to mining lease land)

- (1) Section 317(3), from ‘thereto’—

omit, insert—

‘to the use, the mining registrar must refer the issue of consent to the tribunal for its consideration.’

- (2) Section 317(4)—

omit, insert—

⁵ Section 234 (Governor in Council may grant mining lease)

- ‘(4) The tribunal must fix a date for the hearing and immediately give written notice of the date to each of the following—
- (a) the mining registrar;
 - (b) the applicant;
 - (c) the land owner.
- ‘(4A) The date must be at least 20 business days after the day the tribunal fixes the hearing date.’.

37 Replacement of pt 8 (Effect on planning provisions)

Part 8—

omit, insert—

‘Part 8 Relationship with Integrated Planning Act 1997

‘319 Effect on development

- ‘(1) Subject to subsection (2), the Planning Act does not apply to development authorised under this Act.
- ‘(2) For administering IDAS under the Heritage Act, the Planning Act applies to a registered place under the Heritage Act even if development of the place is authorised under this Act.

‘319A Effect on planning schemes

- ‘(1) This section applies if a mining claim, mineral development licence or mining lease (the *mining tenement*) is granted or renewed.
- ‘(2) The mining registrar for the land covered by the mining tenement must give notice of the details of the tenement to—
- (a) each local government in whose area the land is situated; and
 - (b) the chief executive (planning).

- ‘(3) An entity given a notice under subsection (2) must make a note on each relevant map in the local government’s planning scheme held by the entity.
- ‘(4) The note must—
- (a) identify the land covered by the mining tenement; and
 - (b) state that the Planning Act does not apply to development on the land authorised under this Act, other than for administering IDAS under the Heritage Act, in relation to a registered place under the Heritage Act; and
 - (c) state that interested persons may obtain details of the mining tenement from—
 - (i) for a mining claim or lease—the mining registrar for the land covered by the claim or lease; or
 - (ii) for a mineral development licence—the chief executive of the department in which this Act is administered.
- ‘(5) In this section—
- chief executive (planning)* means the chief executive of the department in which the Planning Act is administered.’.

38 Amendment of s 322 (Minister may request audit)

Section 322(1)(b)—

omit, insert—

- ‘(b) a suitably qualified public service officer who carries out duties in the administration of this Act or another suitably qualified person engaged to carry out the duties;’.

39 Replacement of s 388 (Notification of change of address etc.)

Section 388—

omit, insert—

‘388 Notice of change of address for service

- ‘(1) Subsection (2) applies to a person who, under this Act, gives the Minister, the chief executive or a mining registrar (each the *official*) the person’s address for service.
- ‘(2) If the address for service changes during the time it may be required under this Act, the person must immediately notify, in the approved form, the official to whom it was given.
- ‘(3) In this section—
address for service, for a person, means the person’s address, or the name and address of someone else, for service of notices on the person.’.

40 Amendment of s 391 (Restriction on grants etc.)

Section 391(e), after ‘specified’—

insert—

‘department,’.

41 Insertion of new s 391B

After section 391A—

insert—

‘391B Right of access for authorised activities includes access for rehabilitation and environmental management

‘If, under this part, a mining tenement holder has the right to enter land to carry out authorised activities for the tenement, the right includes the right to enter the land to carry out rehabilitation or environmental management required of the holder under any relevant environmental requirement under the Environmental Protection Act.’.

42 Amendment of s 399 (Mode of service of documents)

- (1) Section 399(2), after ‘registrar,’—

insert—

‘deputy mining registrar,’.

- (2) Section 399(2)(c), before ‘post’—

insert—

‘registered’.

- (3) Section 399—

insert—

- ‘(5) In this section—

registered post means a type of post that requires the recipient’s signature as proof of receipt.’.

43 Insertion of new ss 404A–404D

After section 404—

insert—

‘404A Distance of excavation from railway works

- ‘(1) This section applies if railway works for a railway are in, on or near the land to which a mining claim or mining lease relates.

- ‘(2) The holder of the mining claim or mining lease must not excavate the land less than 12 m horizontally, or 15 m vertically, from the railway works.

Maximum penalty—200 penalty units.

- ‘(3) However, subsection (2) does not apply if the holder—
- (a) has written consent from the chief executive officer of Queensland Rail;⁶ and
 - (b) has lodged the consent with the mining registrar.

- ‘(4) In this section—

railway works, for a railway, means works erected or placed for the railway, and includes, for example, a bridge, culvert, cutting, drain, embankment or pier.

⁶ Queensland Rail is a GOC established under the *Government Owned Corporations (Queensland Rail) Regulation 1995*, section 6.

‘404B Interference with particular things

- ‘(1) A person must not, unless the person has a reasonable excuse, interfere with any of the following—
- (a) a post, cairn of stones or other thing (a ***boundary marker***), used for marking out the boundary of the land to which an application for a mining claim or mining lease relates;
 - (b) a certificate of public notice placed, under section 64B(2)(a) or 252B(1)(a)⁷, on a post or cairn of stones;
 - (c) a number (a ***marked number***) marked or engraved, under section 64B(2)(b) or 252B(1)(b), on a post or cairn of stones;
 - (d) a survey mark placed on the land to which an application for a mining claim, mineral development licence or mining lease relates.

Maximum penalty—200 penalty units.

- ‘(2) For subsection (1), it is a reasonable excuse for a person to interfere with a boundary marker, certificate of public notice or marked number, if the marker, certificate or number is no longer required under this Act.
- ‘(3) In this section—
- interfere with***, a boundary marker, certificate of public notice, marked number or survey mark, includes damage, destroy or remove the marker, certificate, number or mark.

‘404C Information requirements for holders of mining tenements

- ‘(1) The following person may, by giving a holder of a mining tenement a notice, require the holder to provide information about the tenement and activities carried on under the tenement—

⁷ Section 64B (Applicant’s obligations for certificate of public notice) or 252B (Applicant’s obligations for certificate of public notice)

- (a) for a mining claim—a mining registrar;
 - (b) for another mining tenement—the chief executive.
- ‘(2) The notice must state—
- (a) the information that must be provided; and
 - (b) how the information must be provided; and
 - (c) the day by which the information must be provided.
- ‘(3) Subject to section 342(11),⁸ the holder must comply with the notice.
- Maximum penalty—200 penalty units.
- ‘(4) The chief executive may—
- (a) use the information to produce statistics and other data; and
 - (b) publish the statistics and other data produced under paragraph (a).
- ‘(5) However, the use or publication mentioned in subsection (4) must not relate to an exempt matter under the *Freedom of Information Act 1992*.

‘404D False or misleading document

- ‘(1) A person must not give the chief executive or a mining registrar (the *recipient*) a document containing information the person knows is false or misleading in a material particular.
- Maximum penalty—200 penalty units.
- ‘(2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the recipient, 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.

8 Section 342 (Powers of mining registrars and others).

- ‘(3) In a proceeding for an offence against subsection (1), it is enough to state the document was ‘false or misleading’ to the person’s knowledge, without specifying which.’.

44 Insertion of new pt 19, div 6

After section 738—

insert—

‘Division 6 Transitional provisions for Mineral Resources and Other Legislation Amendment Act 2005

‘739 Application of particular provisions

- ‘(1) Each of sections 81, 138(2) to (4), 139, 141, 194 and 276, as amended, applies to the mining tenement mentioned in the section whether the tenement is granted before or after the commencement of the amendment.
- ‘(2) Each of sections 85 and 93(3)(c), as amended, applies to an application for renewal of a mining claim made, but not decided, before the commencement of the amendment.
- ‘(3) Each of sections 85A and 279A applies if—
- (a) the circumstances mentioned in subsection (1)(a) of the section arise before the commencement of the section; and
 - (b) the 3 month period mentioned in subsection (1)(b) of the section ends after the commencement.
- ‘(4) Section 137(3)(h) applies to an exploration permit applied for before, but granted after, the commencement of the provision.
- ‘(5) Each of sections 133, 147, 197 and 286 as in force immediately before the section’s amendment continues to apply, despite the amendment, in relation to applications made, but not decided, before the amendment.
- ‘(6) Section 144, as amended, applies in relation to a determination made by the Minister under section 144(1) after the commencement of the amendment, even if the application

for the grant or renewal mentioned in the section was made before the commencement.

‘(7) Section 269, as amended, applies in relation to an application for the grant of a mining lease made before the commencement of the amendment if the tribunal’s recommendation is made after the commencement.

‘(8) In this section—

amended means amended or repealed by the amending Act.

amending Act means the *Mineral Resources and Other Legislation Amendment Act 2005*.’.

45 Amendment of schedule (Dictionary)

(1) Schedule—

insert—

‘deputy mining registrar means a person employed as a deputy mining registrar under section 336(1).

development means development as defined under the Planning Act.

expiry day, for a mining tenement, means the day the tenement expires under its terms.

Heritage Act means the *Queensland Heritage Act 1992*.

IDAS, see the Planning Act, section 3.1.1.

other mining legislation means the following—

- (a) *Coal Mining Safety and Health Act 1999*;
- (b) *Explosives Act 1999*;
- (c) *Fossicking Act 1994*;
- (d) *Mining and Quarrying Safety and Health Act 1999*;
- (e) *Petroleum Act 1923*;
- (f) *Petroleum and Gas (Production and Safety) Act 2004*.

Planning Act means the *Integrated Planning Act 1997*.

refuse includes reject.

register means a register maintained under section 387.’.

(2) Schedule, definition **mining registrar**—

omit, insert—

‘**mining registrar** means—

- (a) for a mining district—a person employed as a mining registrar under section 336(1) and assigned to the district; or
- (b) for land or a mining tenement over land—the mining registrar for the mining district in which the land is situated.’.

Part 3 Amendment of Aboriginal Land Act 1991

46 Act amended in pt 3

This part amends the *Aboriginal Land Act 1991*.

47 Amendment of s 39 (Permitted dealings with transferred land)

Section 39(2)—

insert—

- ‘(e) enter into a conservation agreement under the *Nature Conservation Act 1992*, section 45, in relation to the land.’.

48 Insertion of new pt 10

After section 138—

insert—

‘Part 10 Validation provision

‘139 Existing conservation agreements

- ‘(1) This section applies to a conservation agreement in relation to transferred land entered into, or purportedly entered into, under the *Nature Conservation Act 1992*, section 45, by the grantees of the land before the commencement of section 39(2)(e) of this Act.
- ‘(2) The agreement is taken to be, and always to have been, valid.’.

Part 4 **Amendment of Coal and Oil Shale Mine Workers’ Superannuation Act 1989**

49 Act amended in pt 4

This part amends the *Coal and Oil Shale Mine Workers’ Superannuation Act 1989*.

50 Amendment of s 2 (Definitions)

- (1) Section 2, definition *superannuation fund*—
omit.

- (2) Section 2—
insert—

‘*merger day* means the day the Queensland Coal and Oil Shale Mining Industry Superannuation Fund merges with another fund to form AUSCOAL Superannuation Fund.

superannuation fund means—

- (a) until the merger day—the Queensland Coal and Oil Shale Mining Industry Superannuation Fund; or
- (b) on and from the merger day—AUSCOAL Superannuation Fund.’.

51 Amendment of s 3 (Meaning of *mine worker*)

Section 3(3)(b)(ii) and (4)(b)(ii)—

omit, insert—

‘(ii) the Coal Mining Industry (Staff) Award, 2004; and’.

52 Replacement of pt 3 heading

Part 3, heading—

omit, insert—

‘Part 3 Transitional provisions

‘Division 1 Transitional provision for Mining and Other Legislation Amendment Act 2000’.

53 Insertion of new pt 3, div 2

Part 3—

insert—

‘Division 2 Transitional provision for Mineral Resources and Other Legislation Amendment Act 2005

‘6 References to superannuation fund from merger day until the commencement

‘(1) This section applies if the merger day is earlier than the commencement of this section.

‘(2) For the period starting on the merger day and ending immediately before the commencement, a reference in this Act to the superannuation fund is taken to have been a reference to AUSCOAL Superannuation Fund.’.

58 Amendment of s 10 (Graticulation of earth's surface into "blocks" and "sub-blocks")

Section 10(4)—

omit, insert—

- '(4) Each block and sub-block must be identified in the way approved by the chief executive.'

59 Omission of s 14 (Prohibition on geothermal extraction)

Section 14—

omit.

60 Amendment of s 33 (Term of permit)

Section 33(2), from 'must'—

omit, insert—

'must not be for more than 5 years after it is granted.'

61 Amendment of s 39 (Taking, interfering with and using water for geothermal exploration)

Section 39(1), from 'the water'—

omit, insert—

'the taking, interference or use—

- (a) happens during—
- (i) the carrying out of geothermal exploration in the area of the permit; or
 - (ii) the compliance with a requirement or condition mentioned in section 97(1);⁹ and
- (b) is reasonably unavoidable.'

⁹ Section 97 (Entry authority to comply with requirement after permit ceases or area reduced)

62 Insertion of new ss 39A and 39B

Chapter 4, part 1—

insert—

‘39A Taking samples in geothermal exploration

- ‘(1) To remove any doubt, it is declared that the right of a permit holder under section 35 includes the right of the holder or an authorised person for the permit to take samples of materials from any part of the area of the permit in which geothermal exploration may, under section 35, be carried out.
- ‘(2) However, subsection (1) applies only to the extent that the taking of the samples is necessary for geothermal exploration in the area of the permit.

‘39B Ownership of samples taken in geothermal exploration

‘Subject to section 107,¹⁰ samples of materials necessarily taken for geothermal exploration by a permit holder or an authorised person for the permit in compliance with this Act become the property of the permit holder when they are taken.’.

63 Insertion of new ss 49A and 49B

After section 49—

insert—

‘49A Public release of required information

- ‘(1) The mere fact of the existence of a geothermal exploration permit is taken to be an authorisation from its holder to the chief executive to do the following, after the end of any confidentiality period prescribed under a regulation—
- (a) publish, in the way prescribed under a regulation, required information for the permit for public use, including, for example, to support geothermal exploration;

¹⁰ Section 107 (Direction to give samples)

- (b) on payment of a fee prescribed under a regulation, make the information available to any person.
- ‘(2) Any confidentiality period mentioned in subsection (1) ends if the information is about an authorised activity carried out solely in an area that is no longer in the area of the permit.
- ‘(3) The authorisation is not affected by the ending of the permit.
- ‘(4) In this section—
authorised activity, for a geothermal exploration permit, is an activity that its holder is, under this Act or the permit, entitled to carry out in relation to the permit.

‘49B Chief executive may use required information

‘The mere fact of the existence of a geothermal exploration permit is also taken to be an authorisation from its holder to the chief executive to use required information for the permit for—

- (a) purposes reasonably related to this Act that are required for the permit; or
- (b) the services of the State.’.

64 Amendment of s 53 (Power to use security)

Section 53(1), after ‘used’—

insert—

‘by the State’.

65 Amendment of s 55 (Replenishment of security)

Section 55(2)(b), after ‘permit’—

insert—

‘in the form and’.

66 Insertion of new ss 55A and 55B

After section 55—

insert—

‘55A Replacement of security

- ‘(1) This section applies if—
- (a) the security for a geothermal exploration permit is given by way of a bond, guarantee or indemnity by, or other financial arrangement with, a financial institution, insurance company or credit provider (an *external security provider*); and
 - (b) the external security provider is or becomes subject to any action taken by or against it, or any holding company of it, that may result in the external security provider becoming an externally-administered body corporate.
- ‘(2) The Minister may, by written notice given to the permit holder, direct the holder to replace the security in the form and up to the amount prescribed under section 31.
- ‘(3) On the replacement of the security, the security held for the permit immediately before the replacement must be refunded to the external security provider.

‘55B Security not affected by change in permit holder

- ‘(1) This section applies if security is given for a geothermal exploration permit that is still in force and there is a subsequent change in the permit holder.
- ‘(2) Despite the change, the security, and any interest that accrues on it, continues for the benefit of the State and may be used under section 53.
- ‘(3) The permit holder’s name as stated in any instrument under which the security was given is taken to have been changed to reflect the change.
- ‘(4) If the security is in the form of money, until the security is replaced or refunded it continues for the holder from time to time of the permit.’

67 Amendment of s 56 (Retention of security)

Section 56—

insert—

- ‘(3) Subsection (4) applies if the security was given by way of a bond, guarantee or indemnity by, or other financial arrangement with, a financial institution, insurance company or credit provider (an *external security provider*).
- ‘(4) The security, or part of it, refundable under this section must be refunded to the external security provider.’.

68 Amendment of s 58 (Deciding application)

(1) Section 58(1)—

omit, insert—

- ‘(1) This section applies subject to—
 - (a) any additional requirements under subdivisions 2 to 6 for the deciding of the application or the taking effect of the decision; and
 - (b) section 133A.¹¹’.

69 Amendment of s 61 (Making application)

(1) Section 61(1)(c), ‘period’—

omit, insert—

‘time’.

(2) Section 61(1)—

insert—

‘(d) the time—

- (i) has ended; or
- (ii) unless deferred, ends within 20 business days after the application is made.’.

¹¹ Section 133A (Dealing with application that is not a properly made application)

(3) Section 61—

insert—

‘(4) In this section—

previous application does not include an application that is not a properly made application.’.

70 Amendment of s 63 (Making application)

(1) Section 63(1)(a)—

omit, insert—

‘(a) a previous application has been made to defer the compliance for the giving of the report or samples; or’.

(2) Section 63(1)—

insert—

‘(c) the time for the compliance—

(i) has ended; or

(ii) unless deferred, ends within 20 business days after the application is made.’.

(3) Section 63—

insert—

‘(4) In this section—

previous application does not include an application that is not a properly made application.’.

71 Amendment of s 65 (Making application)

Section 65, after ‘surrender’, first mention—

insert—

‘all or part of’.

72 Amendment of s 82 (Power of and procedure for immediate suspension)

Section 82(1), ‘a limited’—

omit, insert—
‘an immediate’.

73 Amendment of s 92 (Waiver by chief executive of requirement)

(1) Section 92(1), ‘, in the approved form,’—
omit.

(2) Section 92(3), ‘The’—
omit, insert—

‘(3) Subject to section 133A,¹² the’.

(3) Section 92(6), from ‘practicable’—
omit, insert—

‘practicable after the decision is made, give the applicant an information notice about the decision.’.

74 Insertion of new ch 5, pt 5

Chapter 5—
insert—

‘Part 5 Public roads

‘Division 1 Preliminary

‘97A Significant projects excluded from div 1

‘This division does not apply for a geothermal exploration permit that is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.

12 Section 133A (Dealing with application that is not a properly made application)

‘97B What is a *notifiable road use*

- ‘(1) A *notifiable road use*, for a geothermal exploration permit, is—
- (a) the use of a public road in the area of the permit for transport relating to a seismic survey or drilling activity; or
 - (b) the use of a public road at more than the threshold rate if the haulage relates to the transportation of equipment, plant or materials used for activities authorised under the permit.
- ‘(2) Subsection (1)(b) applies even if the road is not on land in the area of the permit.
- ‘(3) In this section—
- threshold rate* means—
- (a) for a State-controlled road—50 000 t a year; or
 - (b) for another public road—10 000 t a year.

‘Division 2 Notifiable road uses

‘97C Notice of notifiable road use

- ‘(1) It is a condition of a geothermal exploration permit that its holder must not use a public road for a notifiable road use unless the holder has given the public road authority for the road notice that the holder proposes to carry out the use.¹³
- ‘(2) The notice must—
- (a) be given—
 - (i) at least 10 business days before the use starts; or
 - (ii) within a shorter period agreed to by the public road authority in writing; and
 - (b) state each of the following—

¹³ See also section 97K (Compensation to be addressed before carrying out notifiable road use).

- (i) the public road proposed to be used;
- (ii) the type of haulage under the use;
 - Example of type of haulage—*
 - vehicle type
 - material hauled
- (iii) the total weight of material proposed to be hauled;
- (iv) when the use is proposed to start and end;
- (v) the frequency of vehicle movements;
- (vi) contact details for the holder or someone else the holder has authorised to discuss the matters stated in the notice.

‘97D Directions about notifiable road use

- ‘(1) The public road authority for a public road may, by written notice, give a geothermal exploration permit holder a direction (a *road use direction*) about the way the holder may use the road for notifiable road uses being carried out, or proposed to be carried out, by the holder.
- ‘(2) The direction must—
 - (a) be reasonable; and
 - (b) only be about—
 - (i) preserving the condition of the road; or
 - (ii) the safety of road-users or the public; and
 - (c) be accompanied by, or include, an information notice about the decision to give the direction.
 - Examples of what a direction may be about—*
 - when the road may be used
 - the route for the movement of heavy vehicles
 - safety precautions the holder must take
- ‘(3) The direction may also require the holder to—

- (a) carry out an assessment of the impacts likely to arise from the notifiable road use the subject of the notice; and
 - (b) consult with the public road authority in carrying out the assessment.
- ‘(4) However—
- (a) an assessment can not be required if the notifiable road use is transport relating to a seismic survey or drilling activity; and
 - (b) the public road authority can not require an assessment of an impact to the extent it has already been assessed under an EIS under the *Environmental Protection Act 1994*, or a similar document under another Act.

‘97E Obligation to comply with road use directions

‘It is a condition of a geothermal exploration permit that its holder must comply with any road use direction given to the holder relating to the permit, unless the holder has a reasonable excuse.

‘Division 3 Compensation for notifiable road uses

‘97F Liability to compensate public road authority

- ‘(1) The holder of a geothermal exploration permit is liable to compensate the public road authority for a public road for any cost, damage or loss it incurs, or will incur, that is or will be caused by notifiable road uses carried out by the holder that relate to the road.

Examples of a possible cost for subsection (1)—

- repair costs to rectify damage to the road caused, or that will be caused, by any of the uses
- capital costs for unplanned upgrades of the road incurred, or that will be incurred, because of any of the uses

- bring-forward costs, including interest charges, for a planned upgrade of the road that, because of any of the uses, is or will be required earlier than planned
- ‘(2) The holder’s liability under subsection (1) is the holder’s **compensation liability** to the public road authority.
- ‘(3) The compensation liability—
- (a) applies whether or not the holder has, under section 97C, given notice of the use; and
 - (b) is subject to section 97L;¹⁴ and
 - (c) is in addition to, and does not limit or otherwise affect, the holder’s liability under another provision of this Act about compensating the public road authority or anyone else.

‘97G Compensation agreement

- ‘(1) A geothermal exploration permit holder and the public road authority for a public road may enter into an agreement (a **compensation agreement**) about the holder’s compensation liability to the public road authority relating to the road.
- ‘(2) A compensation agreement may relate to all or part of the liability.
- ‘(3) A compensation agreement must—
- (a) be signed by, or for, the holder and the public road authority; and
 - (b) state whether it is for all or part of the liability; and
 - (c) if it is for only part of the liability, state—
 - (i) each part of the notifiable road use to which the agreement relates; and
 - (ii) the period for which the agreement has effect; and
 - (d) provide for how and when the liability will be met.
- ‘(4) A compensation agreement may provide for—

¹⁴ Section 97L (Compensation not affected by change in administration or holder)

- (a) monetary or non-monetary compensation; or
- (b) a process by which it may be amended or enforced.

Example—

A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the permit, including a significant decrease or increase in the extent of the relevant notifiable road use.

- ‘(5) Subsections (2) to (4) do not limit the matters that may be provided for in a compensation agreement.

‘97H Deciding compensation through tribunal

- ‘(1) The public road authority for a public road or a geothermal exploration permit holder may make an application (a *compensation application*) to the tribunal for it to decide the holder’s compensation liability to the public road authority relating to the road.
- ‘(2) The tribunal may decide the compensation liability only to the extent it is not subject to a compensation agreement.
- ‘(3) In making the decision, the tribunal may have regard to whether the applicant has attempted to mediate or negotiate the compensation liability.

‘97I Criteria for decision

- ‘(1) The criteria the tribunal must consider, in deciding a compensation application, include—
 - (a) the reasonableness of the cost, damage or loss claimed; and
 - (b) if the public road authority is a local government—the extent to which the cost, damage or loss claimed has been, will be or ought reasonably to be or to have been, paid from—
 - (i) amounts the geothermal exploration permit holder has paid, or agreed to pay, the public road authority for notifiable road uses; or

- (ii) fees and charges under the *Local Government Act 1993* paid or payable by the holder to the public road authority; and
- (c) any other relevant matter.
- ‘(2) In considering the reasonableness of any cost, damage or loss claimed, the tribunal must have regard to—
 - (a) any action taken, or proposal by, the holder to, or to attempt to, avoid, minimise or remedy the cost, damage or loss; and
 - (b) any relevant act or omission of the public road authority.
- ‘(3) Subsection (1)(b)(ii) applies whether or not the rates and charges relate to notifiable road uses.

‘97J Tribunal review of compensation

- ‘(1) This section applies if—
 - (a) the compensation liability, or future compensation liability, of a geothermal exploration permit holder to a public road authority has been agreed to under a compensation agreement or decided by the tribunal (the *original compensation*); and
 - (b) there has, since the agreement or decision, been a material change in circumstances.

Example of a material change in circumstances—

a significant decrease or increase in the extent of the relevant notifiable road use

- ‘(2) The public road authority or holder may apply to the tribunal for it to review the original compensation.
- ‘(3) Sections 97H and 97I apply, with necessary changes, for the review as if the application were a compensation application.
- ‘(4) The tribunal may, after carrying out the review, decide to confirm the original compensation or amend it in a way the tribunal considers appropriate.
- ‘(5) However, before making the decision, the tribunal must have regard to—

- (a) the original compensation; and
 - (b) whether the applicant has attempted to mediate or negotiate an amendment of the original compensation; and
 - (c) any change in the matters mentioned in section 97I(1) since the original compensation was agreed or decided.
- ‘(6) If the decision is to amend the original compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.’

‘97K Compensation to be addressed before carrying out notifiable road use

‘It is a condition of a geothermal exploration permit that its holder must not carry out a notifiable road use on a public road unless—

- (a) the holder and the relevant public road authority have signed a compensation agreement for the use; or
- (b) the public road authority has given written consent to the carrying out of the use; or
- (c) a compensation application has been made to decide the holder’s compensation liability to the public road authority relating to the road.

‘97L Compensation not affected by change in administration or holder

- ‘(1) An agreement or decision under this part about compensation liability is binding on—
- (a) the relevant public road authority and geothermal exploration permit holder; and
 - (b) each of their personal representatives, successors and assigns.
- ‘(2) Subsection (1) is subject to section 97J.’

75 Amendment of s 107 (Direction to give samples)

Section 107—

insert—

- ‘(2) A sample given to the chief executive under the direction is the property of the State.’.

76 Amendment of s 108 (Direction to give additional information for requirement under Act)

Section 108(1)(a), after ‘notice’—

insert—

‘.’.

77 Amendment of s 109 (Who may appeal)

Section 109, ‘or chief executive’—

omit, insert—

‘, chief executive or a public road authority’.

78 Amendment of s 126 (Transfer of bore to permit holder)

- (1) Section 126(4), ‘The’—

omit, insert—

- ‘(4) Subject to section 133A,¹⁵ the’.

- (2) Section 126(5)—

omit.

79 Amendment of s 127 (Transfer of exploration bore from permit holder to landholder or mining interest holder)

- (1) Section 127(3)(b)—

omit, insert—

15 Section 133A (Dealing with application that is not a properly made application)

‘(b) for a proposed transferee who is a landholder required under the *Water Act 2000* to hold a water licence under that Act to take or interfere with water from the exploration bore—the proposed transferee holds that licence.’.

(2) Section 127(5), ‘The’—

omit, insert—

‘(5) Subject to section 133A, the’.

80 Amendment of s 128 (Transfer of exploration bores from permit holder or former permit holder to the State)

Section 128(6), ‘The’—

omit, insert—

‘(6) Subject to section 133A, the’.

81 Insertion of new s 133A

After section 133—

insert—

‘133A Dealing with application that is not a properly made application

‘(1) This section applies to an application that is not a properly made application.

‘(2) The Minister or chief executive who would, apart from this section, be required to decide the application, must not accept the application.

‘(3) The chief executive must, as soon as practicable after the application is received, give the applicant a written notice—

(a) stating that—

(i) the application is not a properly made application; and

(ii) under this Act, the application can not be accepted; and

(b) identifying the relevant provision of this Act that the application does not comply with.

‘(4) The notice must be accompanied by a refund of any application fee paid by the applicant, less an amount prescribed under a regulation for checking whether the application is a properly made application.’.

82 Amendment of s 139 (Regulation-making power)

Section 139(2), ‘A’—

omit, insert—

‘Without limiting subsection (1), a’.

83 Replacement of s 144 and ch 8, pt 3

Section 144 and chapter 8, part 3—

omit, insert—

‘144 Amendment of sch 9 (Development that is exempt from assessment against a planning scheme)

‘Schedule 9, table 5, after item 3—

insert—

‘Geothermal exploration	
‘3A	Any aspect of development for geothermal exploration carried out under a geothermal exploration permit under the <i>Geothermal Exploration Act 2004</i> .’.

‘145 Amendment of sch 10 (Dictionary)

‘Schedule 10, definition *specified activity*—

insert—

‘(ca) any aspect of development for geothermal exploration carried out under a geothermal exploration permit under the *Geothermal Exploration Act 2004*; or’.

84 Amendment of schedule (Dictionary)

Schedule—

insert—

‘compensation agreement, see section 97G(1).

compensation application, see section 97H(1).

compensation liability, for a geothermal exploration permit holder, see section 97F(2).

notifiable road use, see section 97B.

properly made application means an application that complies with—

- (a) for an application under section 57(1)(a)—section 57(2)(a) and (b); or
- (b) for an application under section 57(1)(b)—sections 57(2) and 63(1); or
- (c) for an application under section 57(1)(c)—sections 57(2) and 61(1); or
- (d) for an application under section 57(1)(d)—sections 57(2) and 63(1); or
- (e) for an application under section 57(1)(e)—sections 57(2) and 68(1) and (2); or
- (f) for an application under section 92—section 92(2); or
- (g) for an application under section 126—section 126(3); or
- (h) for an application under section 127—section 127(4); or
- (i) for section 128—section 128(5).

public road means an area of land that—

- (a) is open to, or used by, the public; and
- (b) is developed for, or has as one of its main uses—
 - (i) the driving or riding of motor vehicles; or
 - (ii) pedestrian traffic; and
- (c) is controlled by a public road authority.

Examples of an area of land that may be included in a road—

- a bridge, culvert, ford, tunnel or viaduct
- a pedestrian or bicycle path

public road authority, for a public road, means—

- (a) for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1991* is administered; or
- (b) for another public road—the local government having the control of the road.

required information, for a geothermal exploration permit, is information (in any form) about authorised activities carried out under the permit that the holder has lodged under this Act, including, for example—

- (a) a sample; and
- (b) a report given under section 49.

road use direction see section 97D.

State-controlled road see *Transport Infrastructure Act 1994*, schedule 6.

tribunal means the Land and Resources Tribunal.’.

Part 7 Amendment of Land Act 1994

85 Act amended in pt 7

This part amends the *Land Act 1994*.

86 Amendment of s 16 (Deciding appropriate tenure)

Section 16—

insert—

- ‘(3) For Cape York agreement land, the evaluation may also take account of commitments and undertakings—
 - (a) having effect in relation to tenure; and

(b) given by persons under, or arising from, a Cape York agreement.

‘(4) Subsection (3) applies for 10 years after it commences.

‘(5) In this section—

Cape York agreement means—

(a) the Cape York Peninsula Land Use Heads of Agreement made on 5 February 1996; or

(b) the agreement made on 17 September 2001, headed Deed of Endorsement Cape York Land Use Heads of Agreement.

Cape York agreement land means unallocated State land to which a Cape York agreement applies.’.

Part 7A Amendment of Mount Isa Mines Limited Agreement Act 1985

87A Act amended in pt 7A

This part amends the *Mount Isa Mines Limited Agreement Act 1985*.

87B Insertion of new s 2B

After section 2A—

insert—

‘2B Amendment of formal agreement

‘The formal agreement, part 2, clause 13, is amended by omitting ‘30th June’ and inserting ‘31st December’.’.

- (d) schedule 2, to the extent it contains words mentioned in a petroleum safety provision under paragraph (a), (b) or (c).¹⁶.

16 *Petroleum and Gas (Production and Safety) Act 2004*, chapter 9 (Safety), part 6 (Restrictions on gas work), chapter 10 (Investigations and enforcement), part 2, division 4 (Noncompliance procedure for all authorities under Act), sections 811 (Obstruction of inspector or authorised officer), 812 (Pretending to be an inspector or authorised officer), 814 (Executive officers must ensure corporation complies with Act) and schedule 2 (Dictionary)

Schedule Minor amendments of Mineral Resources Act 1989

section 2

- 1 **Sections 26(6), (9)(a)(ii)(A) and (9)(b)(i), 39(2) and (3), 53(6), 64A(3), 74(5), 80(4), 83(8) and (12), 86(1), 95(1), 96(11), 117(2) and (3), 122(3)(a), 190(4) and (7), 193(1), 198(10), 229(3)(a), 250(4), 252A(3), 282(1), 290(1), 295(7), 300(13), 313(3)(a), 343(7), 471(4), 478(4), 524(3), 581(3), 652(3)(b)(i), 657(2), 666(4), 688(1), 695(2) and 705(2), ‘28 days’—**
omit, insert—
‘20 business days’.

- 2 **Sections 32(2), 59, 60(1)(a), 64(4)(a), 64B(1)(a), 64C(1)(a), 65(1)(a), 71(2), 74(1)(b), 90, 164(3)(a), 211(2), 212(3)(a), 243, 244(1)(a), 252(7)(a), 252B(9), definition *notice period*, paragraph (a), 252C(1)(a), 254(1)(a), 260(2), 274, 487(1), 543(1) and 685(3)(b)(iii), ‘7 days’—**
omit, insert—
‘5 business days’.

- 3 **Sections 164(3)(a), 212(3)(a), 231(6), 252B(5)(a) and 370(3), ‘21 days’—**
omit, insert—
‘15 business days’.

- 4 **Sections 343(7)(b), 431(2), 471(6)(a), 478(6)(a), 486(2)(a), 542(2)(a), 695(5)(a), 705(5)(a) and 734(4)(a), ‘14 days’—**
omit, insert—
‘10 business days’.

Schedule (continued)

- 5 Section 654(1), ‘2 days’—**
omit, insert—
‘5 business days’.
- 6 Section 134A(1) and (3), ‘133(f)’—**
omit, insert—
‘133(1)(f)’.
- 7 Section 186(1)(d), ‘183(n)(i)’—**
omit, insert—
‘183(1)(m)(i)’.
- 8 Section 190(1), ‘183(n)(i)(A)’—**
omit, insert—
‘183(1)(m)(i)(A)’.
- 9 Section 225(1), ‘Minister’, third mention—**
omit, insert—
‘holder’.
- 10 Section 279, heading, after ‘grant’—**
insert—
‘or renewal’.
- 11 Section 336(1), after ‘registrars,’—**
insert—
‘deputy mining registrars,’.

Schedule (continued)

- 12 Section 338, heading, after ‘registrars’—**
insert—
‘, deputy mining registrars’.
- 13 Sections 338(1) and (2) and 402(2), after ‘registrar’—**
insert—
‘, deputy mining registrar’.
- 14 Section 338(3), after ‘registrar’, first and second mention—**
insert—
‘, deputy mining registrar’.
- 15 Section 338(3), from ‘shall inform’—**
omit, insert—
‘must—
(a) tell the parties concerned; and
(b) if asked by a party, arrange for another mining registrar, deputy mining registrar or field officer, as the case may be, to attend to the matter.’.
- 16 Section 339, heading, after ‘registrars’—**
insert—
‘and deputy mining registrars’.
- 17 Section 339—**
insert—
(1A) Each deputy mining registrar is a deputy mining registrar for the whole State.’.

Schedule (continued)

18 Section 342(1)—

insert—

‘(aa) a deputy mining registrar; and’.

19 Sections 342(1)(j), (3), (4) and (10), 343, 393(1)(a), 399(2), 400, 401, 404(a), 405, 406(1)(a), (6) and (7)(b), 411 and 413(2) and (3), after ‘registrar,’—

insert—

‘deputy mining registrar.’.

20 Section 343(1)—

insert—

‘(aa) a deputy mining registrar; or’.

21 Section 409(1), before paragraph (a)—

insert—

‘(aa) a deputy mining registrar; or’.

22 Section 738(3), ‘division’—

omit, insert—

‘section’.