

# **MINERAL RESOURCES AND OTHER LEGISLATION AMENDMENT BILL 2002**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **Short title**

The short title of the Bill is the *Mineral Resources and Other Legislation Amendment Act 2002*.

#### **Policy objectives of the Bill**

The purpose of the Mineral Resources and Other Legislation Amendment Bill 2002 (the Bill) is to implement the Government's Damage to Roads Policy as it applies to the mining industry.

#### **Means of achieving objectives**

The Government's Damage to Roads Policy requires that the mining industry be subject to road-related regulatory arrangements comparable to those that other industries are subject to under the *Integrated Planning Act 1997*. This requirement has been addressed through the inclusion of road-related provisions in the *Mineral Resources Act 1989* and the *Land and Resources Tribunal Act 1999*.

#### **Estimated cost of Government implementation**

It is anticipated that the proposed regime will not have a significant impact on the financial resources of the Land and Resources Tribunal.

#### **Consistency with Fundamental Legislative Principles**

The Bill is consistent with fundamental legislative principles.

## **Consultation**

Extensive consultation on the development and implementation of the Government's Damage to Roads Policy has occurred since a discussion paper titled 'Damage to Roads from Industry Development Activities' was circulated to government and industry stakeholders in December 1998. During the development of the roads provisions being proposed, further consultation took place with the following departments and agencies – Department of the Premier and Cabinet, Queensland Treasury, Department of State Development, Department of Main Roads, Department of Justice and Attorney General, Land and Resources Tribunal, Department of Local Government and Planning, Office of Rural Communities.

The Queensland Mining Council and Local Government Association of Queensland were also consulted on the proposed roads framework.

There is broad support for the proposed amendments. All stakeholders consulted have endorsed the draft Bill.

## **Purpose and intended operation of each clause of the Bill**

### **PART 1—PRELIMINARY**

*Clause 1* sets out the short title of the Bill.

*Clause 2* indicates that this Act commences on a day to be fixed by proclamation

### **PART 2—AMENDMENT OF MINERAL RESOURCES ACT 1989**

*Clause 3* names the Act to be amended.

*Clause 4* inserts after Section 318, a new PART 7A – ROADS.

## **PART 7A—ROADS**

*Clause 318A* indicates that Part 7A does not apply to mining projects which are declared to be significant under the *State Development and Public Works Organisation Act 1971* and has no bearing on any road related conditions, including compensations arrangements, the Coordinator-General may attach to a significant project's mining lease. These conditions may include developer contributions (compensation) for roadworks where appropriate.

*Clause 318B* indicates that the Department of Main Roads is the road authority for State-controlled roads and a shire council is the road authority for local government roads located within its shire boundary.

*Clause 318C* indicates that a notifiable road use involves haulage by road, of minerals produced from a mining tenement, but only for loads which are above the specified rates. In addition to roads located within a mining tenement, a notifiable road use also applies to roads which extend beyond the mining tenement boundary. In other words, all roads which constitute a specified haulage route.

*Clause 318D* indicates that written notification of a notifiable road use is a condition of a mining tenement. The clause also details the timing requirements of such notices and the type of information to be included in a notice provided by a mining tenement holder to a road authority.

*Clause 318E* indicates that a road authority may give a mining tenement holder directions about how the holder may use its roads when undertaking a notifiable road use. The clause details what a road use direction must be about and what information must accompany such a direction. A road use direction may require the mining tenement holder to undertake, in consultation with the road authority, a road impact assessment of the impacts likely to arise from the notifiable road use. However, this does not preclude the mining tenement holder from voluntarily carrying out a road impact assessment. In the event that an Environmental Impact Statement (EIS) or similar document relating to the notifiable road use has been prepared under other legislation, then a road authority cannot direct the mining tenement holder to undertake a road impact assessment to the extent that it has already been assessed. For example, if an earlier road impact assessment had only considered the safety impacts of a notifiable road use, but not the pavement impacts, then in this case, a road authority

could direct a mining tenement holder to undertake an assessment of the likely pavement impacts attributable to the notifiable road use.

*Clause 318F* indicates that it is a condition of a mining tenement that a holder must comply with any road use direction unless the holder has a reasonable excuse.

*Clause 318G* indicates that a mining tenement holder is liable to compensate a road authority for any cost, damage or loss associated with a notifiable road use. The holder's compensation liability applies whether or not the holder has given notice of the notifiable road use and is binding regardless of a change in the holder of the mining tenement or relevant road authority administration. The compensation liability associated with a notifiable road use does not have any bearing on a holder's liability under another provision of this Act.

*Clause 318H* indicates that a mining tenement holder and a road authority may enter into a compensation agreement regarding a notifiable road use. The clause details what may constitute a compensation agreement but does not limit matters that may be provided for in such an agreement. A compensation agreement may also address any renewal of the mining tenement. The insertion of this clause is not intended to imply that matters about which landholders and mining tenement holders can agree under section 85 and section 279 of the *Minerals Resources Act 1989* are in any way limited.

*Clause 318I* indicates that a mining tenement holder or a road authority may apply to the Land and Resources Tribunal (the Tribunal) to decide the compensation liability relating to a notifiable road use. The clause details what matters the Tribunal may consider in making a decision.

*Clause 318J* indicates which matters the Land and Resources Tribunal (the Tribunal) must consider in deciding a compensation application. In addition to the reasonableness of any application, the Tribunal must consider, if the road authority is a local government, any amount the mining tenement holder has paid or agreed to pay the road authority for notifiable road uses and the amount of rates and charges paid or payable by the mining tenement holder to the road authority under the *Local Government Act 1993*. Mining claims and mining leases are rateable under the *Local Government Act 1993*. This provision should ensure that any compensation being sought by a local government authority needs to be fair and reasonable. However, it should be noted that mining tenement rates and charges are only payable to the local government which has the mining claim or mining lease located within its shire boundary. Other road

authorities (including for State-controlled roads, the Queensland Department of Main Roads) which may be the subject of a mineral haulage route cannot generate revenue from that mining operation's tenement(s) under the *Local Government Act 1993*. The Tribunal must also take into account the conduct of both the mining tenement holder and the road authority when considering the reasonableness of any cost, damage or loss claimed.

*Clause 318K* indicates that the Land and Resources Tribunal (the Tribunal) may review a compensation agreement or a decision of the Tribunal if there has been a material change in circumstances since the making of the original agreement or Tribunal decision. This may include for example, a significant decrease or increase in the amount of haulage since the commencement of haulage activities.

*Clause 318L* indicates that it is a condition of a mining tenement that a mining tenement holder must not carry out a notifiable road use unless the holder and the road authority have signed a compensation agreement, or the road authority has given written consent for the holder to carry out the notifiable road use. A road authority may also give written consent for any renewal of the mining tenement. If there is a dispute between a mining tenement holder and a road authority over a compensation agreement, a holder can carry out a notifiable road use if an application to decide the holder's compensation liability has been made to the Land and Resources Tribunal.

*Clause 318M* indicates that a compensation agreement or Land and Resources Tribunal decision about a holder's compensation liability is binding regardless of a change in the holder of the mining tenement or relevant road authority administration.

*Clause 5* amends section 406 and therefore provides for the Land and Resources Tribunal to be able to review the lawfulness of directions given by a road authority to a mining tenement holder in relation to a notifiable road use.

*Clause 6* inserts a new PART 19, Division 4.

*Clause 736* is a transitional provision and indicates that PART 7A does not apply to an existing notifiable road use, that is mineral haulage which has been carried out within the 12-month period before the commencement of this legislation, and the type of mineral haulage will continue to be substantially the same as its existing form. The type of continuing haulage relates to its nature (e.g. vehicle type, mineral hauled, frequency). This exemption applies to a continuing notifiable road use regardless of it

ceasing and resuming at a later date. However, if there is a material change in the nature of an existing notifiable road use (i.e. a significant increase in the extent of haulage), then this transitional provision will not apply.

*Clause 7* inserts new definitions in the Act's dictionary.

### **PART 3—AMENDMENT OF LAND AND RESOURCES TRIBUNAL ACT 1999**

*Clause 8* names the Act to be amended.

*Clause 9* amends Schedule 1 to list requirements for constituting the Tribunal for relevant compensation and road use direction issues.