Petroleum And Other Legislation Amendment Bill 2004

Explanatory Notes

General Outline

Short Title

The short title of the Bill is the Petroleum and Other Legislation Amendment Bill 2004.

Policy Objectives of the Legislation

The policy objective of the Bill is to ensure that petroleum exploration and production on all existing petroleum tenure continues to be carried out without interruption but subject to a contemporary legislative framework.

Reasons for the Bill

Under the *Petroleum Act 1923*, the holder of an authority to prospect (ATP) has an entitlement to the grant of a petroleum lease. In circumstances where the authority to prospect (ATP) was created on or before 23 December 1996, the grant of a petroleum lease over land where native title is held is a pre-existing right-based act (PERBA) under section 24IB of the *Native Title Act 1993* (Cwlth). This means that the grant is not subject to the right to negotiate. The State was concerned not to affect these pre-existing rights through repeal of the *Petroleum Act 1923*. Accordingly, the existing rights under the *Petroleum Act 1923* have been preserved with respect to the majority of authorities to prospect granted on or before 23 December 1996. However, the entitlement to a petroleum lease has been removed in circumstances where the grant of that lease would be subject to the coal seam gas regime introduced by the Petroleum and Gas (Production and Safety) Bill.

In addition, the renewal of authorities to prospect or petroleum leases granted on or before 23 December 1996 or as a consequence of a right to negotiate process are not subject to the right to negotiate providing the

requirements of section 26D(1) of the *Native Title Act 1993* (Cwlth) are met. In order to ensure compliance with this section, these tenures will also be retained under the *Petroleum Act 1923*.

Achievement of the Objectives

The policy objectives of this Bill are achieved by:

- amending the *Petroleum Act 1923* in a way that generally preserves the pre-existing rights of ATP holders, and enables the renewal of tenures without being subject to the right to negotiate to ensure that exploration and production on these tenures is not compromised;
- amending the *Petroleum Act 1923* to ensure that, as far as possible, the administration of petroleum tenures under the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum Act 1923* is the same;
- providing transitional provisions for petroleum tenures that will continue to be administered under the *Petroleum Act 1923*; and
- providing transitional provisions for petroleum authorities that will be administered under the *Petroleum and Gas (Production and Safety) Act 2004*.

Alternatives to the Bill

The policy objectives can only be lawfully implemented through primary legislation.

Estimated Cost for Government Implementation

Any additional administrative costs are not expected to be significant.

Consistency with Fundamental Legislative Principles

The Bill includes a number of provisions that may be regarded as breaching fundamental legislative principles. Examples of some of the more significant issues are set out below. Other possible breaches are dealt with in the notes on provisions.

Clause 46 of the Bill inserts section 78M(2), section 78L and section 78Q into the *Petroleum Act 1923*. These sections confer upon the holders of petroleum authorities the power to enter privately owned or occupied land and carry out activities relevant to the authority. These activities may, of

course, result in significant disturbance to the land and its occupiers and owners.

Clause 46 of the Bill inserts sections 79P to section 79V inclusive into the *Petroleum Act 1923*. These sections confer upon landowners and occupiers adversely affected by these activities a general right to compensation. More specific provisions, spread throughout the Bill, which deal with compensation in particular circumstances, supplement these provisions.

The sections that give a range of powers to enter privately owned or occupied land and carry out activities relevant to the exploration for, and exploitation of, petroleum are common to many other statutes governing the exploitation of minerals. These sections have been balanced by conferring upon landowners and occupiers both general and specific rights to claim compensation from authority holders for any detrimental effects of such activities. On this basis, it is argued that the provisions have sufficient regard to the rights of property owners and occupiers and as such, do not breach this fundamental legislative principal.

Clause 46 of the Bill inserts sections 75A and 80T(1)(e) into the *Petroleum Act 1923.* Clause 213 amends the *Petroleum and Gas (Production and Safety) Act 2004* by inserting section 705(A). These sections impose maximum penalties of 1000 penalty units ($75,000) for breach of those provisions. These maximum penalties are appropriate given the intrusive powers conferred upon petroleum tenure holders and given the potentially very serious public safety issues, which arise in relation to the conduct of petroleum exploration and production.

Clause 61 of the Bill inserts section 117 into the *Petroleum Act 1923.* This section effectively declares persons (including corporations) to be guilty of offences committed by their representatives (which, in the case of corporations, includes its executive officers). This section also provides a ground upon which liability may be avoided. These grounds are essentially that the person took reasonable steps to ensure compliance and/or to prevent the offending Act or omission, or that the person was not in a position to influence the conduct of the relevant person or corporation. This section effectively reverses the onus of proof, since under the law, a person generally can not be found guilty of an offence unless he or she has the necessary intent. The insertion of this section is justified on the basis that it is appropriate that a person, who is in a position to influence the conduct of their representative, should be accountable for offences committed against the provisions of the Bill by the representative. It should be noted that there are defences within this provision relating to

whether the person was in a position to influence the representatives conduct in relation to the offence or, that the person exercised reasonable diligence to ensure the representative complied with the provision.

Clause 216, which inserts section 732A into the *Petroleum and Gas (Production and Safety) Act 2004*, provides that sections 23(1) and 24 of the Criminal Code do not apply to contravention of sections 677, 688, 693, 699, 702, 703 and 704 of that Act. This clause is consistent with the exclusion contained in section 48 of the *Coal Mining Safety and Health Act 1999*.

The Criminal Code provisions would normally enable persons charged with these offences to escape liability if the offence happened independently of their will or was accidental (section 23) or if the person held an honest and reasonable, but mistaken, belief in a state of things (section 24). The exclusion of sections 23 and 24 of the Criminal Code is justified because of the potential serious consequences of poor safety management practices including impacts on the health and safety of individuals and commercial consequences.

Consultation

Extensive consultation was conducted on the *Petroleum and Gas (Production and Safety) Act 2004* with key industry and community stakeholders. Many of the provisions of this Bill have been incorporated into the Petroleum and Other Legislation Amendment Bill 2004.

On 14 June 2004, the Petroleum and Other Legislation Amendment Bill 2004 was released for stakeholder comment. Submissions on the Bill closed on 12 July 2004. A total of 16 submissions were received.

Industry stakeholders raised a number of issues in relation to the Bill. Of concern to the Australian Petroleum Production and Exploration Association (APPEA), the Australian Coal Seam Gas Council, BHP Coal Pty Ltd, CH4 Gas Limited and CH4 Pty Ltd, Comet Ridge Limited, Molopo Australia Limited, Helm Energy Australia, LLC, Origin Energy (CSG) Pty Ltd and Santos Limited was the proposed amendment to section 40 of the *Petroleum Act 1923* in clause 23 of the Bill. In its original form clause 23 (1B) removed the entitlement of the holders of four identified authorities to prospect to the grant of a petroleum lease under section 40 of the *Petroleum Act 1923*. The policy intent of this provision is to ensure that these authorities to prospect are dealt with under the coal seam gas regime provisions of the *Petroleum and Gas (Production and Safety) Act 2004* and means that any petroleum leases granted from these authorities to prospect

may be subject to the right to negotiate. To take into account some concerns raised by industry stakeholders, amendments have been made to preserve the entitlement to a lease where there is no overlap with a coal or oil shale mining tenement.

Industry criticism is that the proposed amendment removed the exemption from addressing native title even if the proposed petroleum lease did not overlap with any coal or oil shale mining tenure or the resource sought to be produced is conventional petroleum only rather than coal seam gas. These industry groups have argued strongly that the right presently enjoyed under section 40 of the *Petroleum Act 1923* to a petroleum lease, must be maintained and that the policy intention can be achieved through other means. They have proposed that the right to the grant of a petroleum lease be maintained but the resultant petroleum lease be conditioned such that the extraction of petroleum from the overlapping land, is to be deferred under the petroleum lease until a date when the coal resource has been fully utilised.

The development of the policy underpinning the coal seam gas provisions of the *Petroleum and Gas (Production and Safety) Act 2004* was rigorous and comprehensive including an independent review by Mr Frank Clair QC, Professor Don McKee, Director, Sustainable Minerals Institute, University of Queensland and Mr Peter Dowling, Company Director, formally Minerals and Energy partner Ernst and Young. This report to the Minister for Natural Resources, Mines and Energy, recommended that the coal seam gas provisions allow for overlapping exploration tenure, however, not overlapping production tenure. This recommendation was reflected in the final policy position approved by Cabinet on 25 November 2002 by Decision No. 3788 and again on 10 May 2004 by Decision No. 4810 when approving introduction of the Petroleum and Gas (Production and Safety) Bill 2004.

The Bill has been amended to retain the section 40 right for areas where there is no overlap between the authority to prospect and a coal mining tenement. However, in light of the coal seam gas policy approved by Cabinet, based on the recommendation of the independent review panel, it is not proposed to allow overlapping production tenure as proposed by industry.

Notes on Provisions

Part 1—Preliminary

Short Title

Clause 1 specifies the short title of the Bill.

Commencement

Clause 2 provides for the commencement of part 3, section '259 and the Schedule immediately after the day of the date of assent for the *Petroleum and Gas (Production and Safety) Act 2004*. The remaining provisions of the Petroleum and Other Legislation Amendment Bill 2004 commence immediately after the commencement of section 32 of the *Petroleum and Gas (Production and Safety) Act 2004*. If the Petroleum and Other Legislation Amendment Bill 2004 commenced later, then there would be two significantly different regimes for the administration of the petroleum tenures under the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum Act 1923*.

Part 2—Amendment of Petroleum Act 1923

Act amended in pt 2

Clause 3 provides for the amendment of the *Petroleum Act 1923*.

Amendment of s 2 (Definitions)

Clause 4 inserts additional definitions into section 2 of the *Petroleum Act 1923*. The inclusion of these definitions has resulted in the continuation of some definitions used in the *Petroleum and Gas (Production and Safety) Act 2004* so there is consistency between the *Petroleum Act 1923* and the *Petroleum and Gas (Production and Safety) Act 2004*.

Replacement of s 3 (Words and expressions used in Mineral Resources Act)

Clause 5 omits the current section 3 and inserts provisions that define the relationship between petroleum tenures and mining tenements. The reference to words in the *Mineral Resources Act 1989* is no longer appropriate considering the clarifications provided for in the amendments to the *Petroleum Act 1923*.

'Relationship with Mineral Resources Act

Clause 5, section '3 provides for the relationship with the *Mineral Resources Act 1989*. The clause provides some simple mechanisms to deal with any overlap issues for non-coal seam gas tenures that might arise. The intent is that petroleum lease and mining lease activities will always have "right of way" over exploration tenements and the consent of an existing petroleum or mining lease holder is needed before any authorised activity can be undertaken by an exploration tenement holder.

Where a petroleum or mining lease is not involved, the activities are to be undertaken only if agreement has been reached between the parties.

Relationships with coal seam gas regime tenures (coal and oil shale mining leases and exploration tenements) are dealt with later in this Bill, as are relationships between mining tenements overlapping pipeline licences and petroleum facility licences.

'Relationship with Nature Conservation Act 1992

Clause 5, section '4 gives effect to petroleum exploration and development being banned from national parks and other areas of environmental or conservational value as defined under sections 27 and 70QA of the *Nature Conservation Act 1992.*

Amendment of s 7 (Application of Act)

Clause 6 omits section 7 of the *Petroleum Act 1923*. The omission of section 7 ensures that the *Explosives Act 1999* applies to all uses of explosives by the petroleum and pipeline industries. Likewise the administration of oil refineries is to be undertaken under the *Petroleum and Gas (Production and Safety) Act 2004* and the exemption of the *Amoco Australia Pty. Limited Agreement Act 1961* from the effect of the *Petroleum Act 1923* is appropriate as the regulation of oil refineries is undertaken

under the *Petroleum and Gas (Production and Safety) Act 2004*. Similarly, there should be no inconsistency in the *Petroleum Act 1923* with the *Gas Pipelines Access (Queensland) Act 1998* as all pipelines are to be administered under the *Petroleum and Gas (Production and Safety) Act 2004*.

Insertion of new s 7B

Clause 7 inserts a new section into the *Petroleum Act 1923*.

'Notes in text

Clause 7, section '7B provides for a note in the Bill to be part of the Bill.

Omission of pt 2 (Petroleum Advisory Board)

Clause 8 omits the power to appoint a Petroleum Advisory Board that is no longer considered necessary. If an inquiry is needed in relation to any issue then that inquiry can be constituted to the *Commissions of Inquiry Act 1950*. However, it was considered appropriate that there should be the power to establish a Board of Inquiry in relation to safety. This power is in the *Petroleum and Gas (Production and Safety) Act 2004* chapter 9, part 5.

Amendment of s 10 (Reservations in grants)

Clause 9 omits the reference to permits, as prospecting permits are to be omitted from the *Petroleum Act 1923*.

Omission of ss 11-16

Clause 10 omits all reference to corporation sole in relation to the *Petroleum Act 1923*. The removal of the reference to corporation sole is considered that it is no longer appropriate for the Government to undertake exploration and production in that manner instead of as a Government owner corporation.

Replacement of pt 4, heading (Prospecting permits and leases)

Clause 11 replaces the heading of part 4 in the *Petroleum Act 1923* as the reference to prospecting permits are to be omitted from the *Petroleum Act 1923*. The new title reflects the fact that this section only refers to authorities to prospect.

‘Part 4—Authorities to Prospect

‘Division 1—General Provisions

Omission of s 17 (Permits and leases)

Clause 12 omits section 17 of the *Petroleum Act 1923* as no more prospecting permits will be issued.

Amendment of s 18 (Authority to prospect)

Clause 13 amends section 18 of the *Petroleum Act 1923*. Subsection 18(1) is omitted as no more applications for an authority to prospect can be made under the *Petroleum Act 1923*. All future grants of an authority to prospect are to be made under the *Petroleum and Gas (Production and Safety) Act 2004* after the commencement of this Bill. Some current applications will continue to be processed under the *Petroleum Act 1923* and the amendment to section 18(2) is required to enable the Minister to fix the relevant conditions for these authorities to prospect.

Insertion of new s 18A

Clause 14 inserts a new section into the *Petroleum Act 1923*.

‘Minister’s power to decide excluded land for authority to prospect

Clause 14, section ‘18A enables land to be excluded from an authority to prospect. The exclusion may relate to a specific type of land or an area in the authority. Land may be excluded if there is an incompatibility between the land use and petroleum exploration. Land may be excluded from the authority when the Minister is deciding to approve the grant, renewal or any later work program for the authority. There is no provision in relation to the addition of excluded land to an authority to prospect. If the holder of an authority to prospect wants to add excluded land then the holder will have to apply for the replacement tenure under the *Petroleum and Gas (Production and Safety) Act 2004*.

Replacement of s 20 (Renewal of authority to prospect)

Clause 15 inserts a new section 20 in the *Petroleum Act 1923*.

'Area of authority to prospect reduced on grant of lease

Clause 15, section '20 requires the area of the authority to prospect to be reduced on the grant of a petroleum lease. The grant of the petroleum lease from an authority gives the petroleum lease holder additional rights including production. The reduction of the area from the authority to prospect ensures that the relinquishment condition can be met from land in the authority. If the whole of the area of the authority coincides with land in a petroleum lease, then the land under the lease could be relinquished as a means of meeting the relinquishment condition. If the area of the petroleum lease coincides with the whole of the area of the authority to prospect, then when the petroleum lease is granted the authority to prospect ends.

Amendment of s 21 (Surrender of authority to prospect)

Clause 16 provides for the application to be submitted on the approved form and for the application to be submitted at the appropriate office.

Omission of s 22 and 23

Clause 17 omits sections 22 and 23. Section 22 can be omitted as the cancellation of an authority to prospect is to be provided for in relation to noncompliance act in part 6P. Section 23 can be omitted as the transfer of an interest in an authority to prospect is considered to be a dealing and is provided for in part 6N.

Amendment of s 24 (Qualification of permittees and lessees)

Clause 18 clarifies that prospecting permits are no longer to be issued and to enable a government owned corporation to be granted or hold a 1923 Act petroleum tenure.

Replacement of s 25 (Limit to number of permits and leases)

Clause 19 is omitted and a new section is inserted. It is no longer appropriate for any limit to be imposed on the number of leases that a person may hold. The removal of the limit is a reflection of the increasing

competition for the supply, especially of natural gas, into industrial and domestic markets in both Queensland and in southeast Australia.

‘Division 2—Work programs

‘Subdivision 1—Requirements for proposed later work programs

‘Operation of sdiv 1

Clause 19, section ‘25 provides for the operation of this subdivision.

‘General requirements

Clause 19, section ‘25A provides for the contents of a proposed work program. The proposed program is intended to specify the exploration and testing activities proposed to be conducted during the work program period, but not all authorised activities that can be carried out under the authority. The specification of contents of the work program assists in obtaining all the information necessary to enable a decision to be made in respect to the work program.

‘Program period

Clause 19, section ‘25B requires the proposed later work program to state the period to which it is to apply. The period of the work program will generally be four years to correspond with what may be the term for an authority to prospect. The Minister may approve a longer renewed term. It would be meaningless to allow for the approval of a work program for a period that extends beyond the term of the authority to prospect, as there is no guarantee that the authority to prospect would be renewed.

‘Subdivision 2—Approval of proposed later work programs

‘Application of sdiv 2

Clause 19, section ‘25C provides for the application of this subdivision.

‘Authority taken to have work program until decision on whether to approve proposed work program

Clause 19, section ‘25D provides for the continuation of the current work program until the later work program is decided. This provision is required to ensure that there is always a current work program for any authority to prospect otherwise the holder would be in breach of the requirement to have an approved work program.

‘Deciding whether to approve proposed program

Clause 19, section ‘25E provides for approval or refusal of the proposed later work program. This clause states the matters to be considered in approving a later work program. The approval process requires the consideration of the standard criteria used in assessing the original work program plus the extent of compliance with, and any change (and reason for the change) to the existing work program.

‘Steps after, and taking effect of, decision

Clause 19, section ‘25F details the steps to be taken after making a decision regarding the later work program. The holder is to be notified in respect to the decision. If the Minister refuses to approve the work program, then the applicant has the right of appeal against that decision. This right of appeal is necessary as the applicant may have already expended significant funds in relation to previous exploration activities and the new program would be likely to be based, in part, on the investment already made.

‘Subdivision 3—Amending work programs

‘Restrictions on amending work program

Clause 19, section ‘25G enables for a one year extension to complete a work program. The ability to apply for a one year extension is restricted to when there has been a change of holder. This extension is intended to provide the new holder with the opportunity to review the basis upon which the work program is being undertaken.

‘Applying for approval to amend

Clause 19, section ‘25H allows for the amendment of the approved work program and specifies that the application must be made at least 20 business days before the relevant period ends. The time is specified to ensure that the application can be assessed within the relevant period, to which the amendment relates and in the context that the reasons for the amendment are relatively current.

‘Requirements for making application

Clause 19, section ‘25I provides that the application must be lodged at a stated place and be accompanied by the prescribed fee.

‘Deciding application

Clause 19, section ‘25J provides for the circumstances when an application to amend the work program or substitute work will be considered by the Minister. The inability to change the initial work program relates to the program being set as a result of the tender process. The inability to change the work program ensures the integrity of the work program that was proposed in the tender and approved by the Minister, is carried out in full. Substitution provides for a degree of flexibility to enable the holder to undertake a work program that best achieves their exploration objectives. Substitution can not be undertaken in relation to the initial work program.

Subsection ‘25J(2) states the requirements of which the Minister must be satisfied in order to approve application to extend the work program period for one year.

Subsection ‘25J(3) provides for other circumstances when an amendment to the work program will be considered. The application is not to be related to the holder’s financial or technical resources or ability to manage petroleum exploration as these are a reflection of the manner in which the holder undertakes their business. The failure to secure the timely access to the necessary equipment and technical resources is an indication of the ability to manage petroleum exploration. The results of petroleum exploration are not considered to be a valid reason for amending a work program, otherwise by substitution, as it is an inherent risk associated with exploration. The holder of an authority to prospect is not to be disadvantaged by an event beyond their control, which could not have been prevented by a reasonable person in their position.

Subsection ‘25J(4) enables the Minister to defer the relinquishment days for a period that relates to the circumstances of the amendment. The deferral of one relinquishment day does not effect later relinquishment days or provide for any extension to the term of the authority to prospect.

Subsection ‘25J(5) enables the Minister to require the relinquishment of additional land in consideration of the approval of the amendment.

‘Steps after, and taking effect of, decision

Clause 19, section ‘25K provides for the actions to be taken after the decision made regarding the application to amend the work program and for when the decision is to take effect. There is to be no appeal in relation to the Minister’s decision as it relates to the management of the State’s resources.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause in that it does not provide for an appeal in relation to any conditions that the Minister may set in relation to the approval. The Minister setting conditions is consistent with the Minister’s initial approval of the work program and the Minister’s role as the custodian of the State’s resources.

‘Division 3—Renewals

‘Conditions for renewal application

Clause 19, section ‘25L provides for the conditions for a renewal application for an authority to prospect. An application can not be made if there are payments owing to the State or security still to be paid. The requirement that there is no money outstanding is a reflection of the capability of the applicant. The application can not be made more than 60 business days before the end of the term, so that the extent of compliance in relation to the conditions of the previous term can be properly considered. The application cannot be made if the section 31 agreement or ILUA provide for renewal under the *Petroleum and Gas (Production and Safety) Act 2004.*

'Requirements for making application

Clause 19, section '25M provides for the requirements of a renewal application for an authority to prospect. The application is to include information on activities to be undertaken in the new term, as well as statements in respect of compliance with the work program for the previous term. The information in relation to previous performance assists in assessing the relevance of future activities and also in determining if any disciplinary action for failure to comply with conditions is necessary.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause. The late lodgement fee is proposed to encourage the timely submission of renewal applications, by authority to prospect holders, for possible grant by the Minister. The time for lodgement of a renewal application has been determined with a view to completing the necessary work of assessing, and granting or refusing the application before the expiry of the current term approved for the authority to prospect. The late lodgement of the renewal application greatly reduces the time for the processing of the application. To discourage the late lodgement of renewal applications, and to reduce unnecessary increases in the Minister's and administering department's work loads, a late fee significantly greater than the lodgement fee is proposed. The authority to prospect holder has 40 business days, before the end of the current term of the authority to prospect, to submit the renewal application without incurring the proposed late fee. This is a reasonable timeframe for lodgement, considering the authority to prospect holder has known of this date since the grant of the authority to prospect. The department will also, as a matter of course, be sending out notices prior to the time for lodgement of the renewal application, advising of the requirement for lodgement, the times for submission, and the late fee payable if the renewal application is not submitted within stated timeframes.

'Continuing effect of authority for renewal application

Clause 19, section '25N provides for the authority to prospect to continue until the application for renewal has been decided. The continuation is needed as the only way for an authority to prospect to be granted is by a tender process. If the tenure ended, then a tender process would have to be undertaken and the original applicant may not be successful. This would be inappropriate if the reason for the authority to prospect ending was the failure of the renewal to be completed before expiry. Also, some exploration activities will need to continue after the due expiry date.

An example of the continuation of activities is production testing of petroleum, especially in relation to coal seam gas. Production testing for coal seam gas involves the reduction of pressure in the reservoir by pumping water from the reservoir resulting in the release of gas in the seam and its flow to the surface. The reduction in pressure can take up to a year and cessation of the reduction process can result in the loss of gas production. If the production testing had to cease at the end of the tenure and could only commence after the tenure had been renewed, then the possibility exists that the test may not be valid and additional work will have to be undertaken to determine the commercial viability of coal seam gas production in that area.

'Deciding application

Clause 19, section '25O places the restrictions on deciding the application to renew the authority to prospect. An authority to prospect can only be renewed if the holder continues to satisfy the capability criteria, has substantially complied with the conditions of the authority and the provisions of the Bill, the Minister has approved the holder's proposed work program, and a relevant environmental authority under the *Environmental Protection Act 1994* has been issued for the proposed authority to prospect. The renewal application can not be decided if the holder has been required under the Bill to apply for a petroleum lease and the application for the lease has not been decided. The decision on the petroleum lease may result in a different later work program being approved and conditions being placed on the authority to prospect. The applicant may be required to pay the annual rent and give security before the Minister decides to grant the renewal. This is to ensure that all of the administrative arrangements have been completed before the authority is renewed.

'Term and area of renewed authority

Clause 19, section '25P provides for the area and term of the renewed authority. The area of the authority to prospect can not be increased just because the authority has been renewed. The restriction placed on the renewal of an authority to prospect is to ensure that an authority to prospect can only be renewed during the 12 years after the authority to prospect is first renewed after the start day and the term can not end after 1 November 2021.

‘Other provisions and taking effect of renewed authority

Clause 19, section ‘25Q provides for provisions and conditions in relation to the authority to prospect as well as when the relinquishment condition must be met. If the renewal of the authority to prospect is decided after the expiry of term, then any new conditions take effect until the holder is given notice of the new conditions. This is to ensure that there is no retrospectivity in relation to the conditions.

‘Criteria for decisions

Clause 19, section ‘25R requires that the same criteria be used for the decision to grant the authority to prospect as for its renewal. The application of the same criteria will ensure a consistency in the decision making process, regarding the provisions, throughout the life of the tenure.

‘Information notice about refusal

Clause 19, section ‘25S provides for the applicant to be given an information notice if the renewal of the authority to prospect is refused. The requirement for giving an information notice is appropriate considering that the holder has probably invested in exploration activity in the area of the authority.

‘When refusal takes effect

Clause 19, section ‘25T states that the refusal to renew an authority to prospect does not take effect until after the date for an appeal against the decision passes. This date ensures that if the holder decides to appeal and the appeal is successful, then the authority to prospect continues and would not have to be reinstated. As the authority to prospect continues, applications can not be made for a new petroleum tenure over the area of the original authority.

‘Division 4—Expiry of part

‘Expiry of pt 4 and ending of authorities to prospect

Clause 19, section ‘25U provides for the expiry of part 4, relating to an authority to prospect, on 1 November 2021. The expiry of this part on this

day is unlikely to be an issue as all 1923 Act authorities to prospect should have ended owing to the relinquishment condition to these authorities.

Omission of pt 5, other than s 35

Clause 20 omits all sections except section 35. The omission of all sections is appropriate as prospecting permits are no longer being issued.

Amendment of s 35 (Rights to water etc)

Clause 21 amends section 35 heading.

'Miscellaneous rights

Clause 21, section 35 reflects the fact that prospecting permits will no longer be issued and the section no longer provides rights in respect to water.

Insertion of new pt 6, div 1, hdg

Clause 22 inserts a new heading to reflect the clauses to be added.

'Division 1—General provisions for leases

Amendment of s 40 (Lease to holder of authority to prospect or permittee)

Clause 23 amends section 40 in the *Petroleum Act 1923* to reflect the fact that the prospecting permits will no longer be issued. The clause only allows for the right to the grant of a petroleum lease where the proposed lease is wholly outside the area of a coal or oil shale mining tenement. The restriction of the right to a petroleum lease is intended to allow for the coal seam gas policy framework to apply to all petroleum leases where there is overlapping land with a mining tenement. The amendment provides for a term of 30 years for all future petroleum leases. This term is consistent with the term provided for in the *Petroleum and Gas (Production and Safety) Act 2004*. The ability to apply for a petroleum lease expires on 1 November 2021 as there will no longer be any authorities to prospect from which applications for a petroleum lease can be made.

Insertion of new ss 40A and 40B

Clause 24 inserts new provisions into the *Petroleum Act 1923* in relation to the grant of a petroleum lease.

'Continuing effect, for s 40 application, of authority to prospect and its work program

Clause 24, section '40A provides that if an application for a petroleum lease is made under section 40 of the *Petroleum Act 1923* and the application is not decided before the authority to prospect ends, then the authority to prospect continues until the specified events in this clause happen. The land subject to the petroleum lease is likely to have completed petroleum wells and equipment that the applicant will use as part of their production activities. The continuation of the authority to prospect enables the holder of the authority to prospect to access these wells and equipment, ensuring they are maintained in proper working order. Also, production testing could continue without any disruption that may have a detrimental impact on later petroleum production.

'Minister's power to decide excluded land for lease

Clause 24, section '40B enables land to be excluded from a petroleum lease. Land may be excluded from the lease when the Minister is deciding to approve the grant, renewal or any later development plan for the lease. The exclusion may relate to a specific type of land or an area in the lease. Land requiring specific procedures in relation to it being accessed is the most likely to be excluded at grant. The excluded land within the boundaries of the lease is likely to be the same as for the pre-existing authority to prospect. Owing to the administration of the area of a lease by sub-blocks, there is no need to maintain the integrity of the blocks and therefore there is no need to consider land in another petroleum tenure as excluded land.

Omission of ss 41-43

Clause 25 omits sections 41 to 43 of the *Petroleum Act 1923*. Section 41 refers to the grant of a lease over part of a prospecting permit and there will no longer be prospecting permits issued following the amendment of the *Petroleum Act 1923*. Section 42 is not applicable as the only way for a petroleum lease to be granted is by way of an application by the holder of

an authority to prospect. Section 43 is omitted as the requirement to pay security is provided for in part 6G.

Amendment of s 44 (Form etc. of lease)

Clause 26 inserts a subclause making a lease subject to mandatory conditions and any conditions set by the Governor in Council. This provision offers certainty in relation to the need to abide by the conditions imposed upon a petroleum lease.

Amendment of s 45 (Entitlement to renewal of lease)

Clause 27 amends section 45 of the *Petroleum Act 1923* to provide for ending of the ability to renew a petroleum lease to end on 1 November 2021. Also, the petroleum leases that can be renewed under section 45 are specified. The holders of continuing 1923 Act petroleum leases that can not be renewed will have to apply for the replacement tenure under the *Petroleum and Gas (Production and Safety) Act 2004* if the holder wishes to retain the tenure after its expiry day.

Replacement of s 46 (Rent)

Clause 28 inserts a new provision in relation to the payment of rent for a petroleum lease. The new provision is intended to standardise the payment of rent with that in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Annual rent

Clause 28, section ‘46 requires the petroleum lease holder to pay annual rent.

Amendment of s 47 (Reservations, conditions and covenants of lease)

Clause 29 provides for the payment of royalty in accordance with the *Petroleum and Gas (Production and Safety) Act 2004*. This ensures that there is only one royalty regime to apply to all petroleum produced in Queensland.

Omission of ss 49 and 50

Clause 30 omits sections 49 and 50 of the *Petroleum Act 1923*. Section 49 can be omitted as the requirement to provide plans and reports is provided for in part 6E. Section 50 can be omitted as new sections inserted by this Bill provide for and apply to the submission of later development plans.

Amendment of s 51 (Use and occupation of mining area on private or improved land)

Clause 31 is to insert additional subsection into *Petroleum Act 1923* section 51 stating that the holder of a mining tenement is not considered to be an occupier for this section.

Amendment of s 52 (Surrender and determination of lease)

Clause 32 provides for additional requirements in respect to the surrender of a petroleum lease. The surrender application must be made by the holder of the petroleum lease and lodged at the relevant office.

Insertion of new s 52A

Clause 33 inserts a new section into the *Petroleum Act 1923*.

‘Application of 2004 Act provisions about coextensive natural underground reservoirs

Clause 33, section ‘52A provides for relevant sections in the *Petroleum and Gas (Production and Safety) Act 2004* in relation to coextensive reservoirs to also apply to petroleum leases under the *Petroleum Act 1923*.

Replacement of s 53 (Proceedings for forfeiture)

Clause 34 replaces section 53 of the *Petroleum Act 1923* by clauses relating to development plans for petroleum leases.

‘Division 2—Development plans

‘Subdivision 1—Requirements for proposed later development plans

‘Operation of sdiv 1

Clause 34, section ‘53 provides for the operation of this subdivision.

‘General requirements

Clause 34, section ‘53A details the initial development plan must include information about the amount of petroleum to be produced, proposed rate of production and the types of activities to be undertaken. The information enables an assessment of whether there are sufficient resources available and whether the activities are appropriate to achieve the proposed rate of production. It is intended that the information provided for each year of the plan must be quite detailed and more general information must also be provided on the proposed development over the whole of the term of the mining lease. Provision is made for a regulation to provide details about the form of the information to be supplied in the plan and other matters relevant to the production of petroleum.

‘Plan period

Clause 34, section ‘53B provides for the period to which the development plan is to apply. Generally the plan is for a period of five years, which is considered adequate in the context of the construction and operation of plant and equipment necessary for petroleum production. This period is also sufficient to allow for a review of the performance of the natural underground reservoir in the context of the amount and rate of petroleum production in determining future production.

‘Subdivision 2—Approval of proposed later development plans

‘Application of sdiv 2

Clause 34, section ‘53C provides for the application of this subdivision.

‘Lease taken to have development plan until decision on whether to approve proposed development plan

Clause 34, section ‘53D provides that until the later plan is decided the lease is taken to have a development plan (even though the plan period has actually ended) and the lease holder is allowed to undertake any authorised activities for the lease.

‘Deciding whether to approve proposed plan

Clause 34, section ‘53E provides for the matters that must be considered in deciding whether to approve the proposed plan. The criteria have been selected to ensure that petroleum production is technically possible and viable for current or future commercial production. This is consistent with a petroleum lease being a production tenure and is not to be used for retaining access to land with no intention of undertaking production.

‘Power to require relinquishment

Clause 34, section ‘53F provides for a possible relinquishment of land as a requirement of the approval of the proposed development plan when a reduction or cessation of production is planned. The cessation or reduction may be a result of production no longer occurring from a natural underground reservoir in a particular part of the lease, so that area may no longer be required and should not be part of the area of lease. It may also apply in extreme circumstances where production is not occurring, but the Minister considers that it could be. This may provide opportunities for utilisation by other parties, so a relinquishment may be required. The relinquishment may not be required at the time of approval of the development plan, but may be required at some later time within the period of the proposed plan.

‘Steps after, and taking effect of, decision

Clause 34, section ‘53G provides for an information notice to be given if the decision is not to approve the proposed later plan. An information notice is appropriate as the holder is likely to have invested in plant and infrastructure for petroleum production during the early plans. The decision generally takes effect after time for an appeal ends.

Omission of pt 7, hdg (Provisions applicable to permits and leases)

Clause 35 omits the heading for part 7 of the *Petroleum Act 1923* as it is no longer relevant.

Replacement of pt 7, div 1 (Signing applications)

Clause 36 replaces the heading for part 7, division 1 of the *Petroleum Act 1923* as it is no longer relevant.

‘Division 3—Miscellaneous provision

Omission of pt 7, div 2, hdg (Royalties)

Clause 37 omits the heading.

Omission of ss 55 and 56

Clause 38 omits sections 55 and 56 relating to royalties as royalty is to be assessed under the relevant part of the *Petroleum and Gas (Production and Safety) Act 2004*.

Omission of ss 58-60

Clause 39 omits sections 58 to 60 relating to royalties as royalty is to be assessed under the relevant part of the *Petroleum and Gas (Production and Safety) Act 2004*.

Omission of pt 7, div 3, hdg (Assignments and other dealings with permits and leases)

Clause 40 omits the heading to part 7, division 3 relating to assignments as these are addressed in part 6N.

Replacement of ss 61-64

Clause 41 omits sections 61 to 64 as these relate to dealings, noncompliance provisions or access to land, which is addressed elsewhere or by the inclusion of the new clause.

'Obstruction of 1923 Act petroleum tenure holder

Clause 41, section '61 prohibits a person, without reasonable excuse, from obstructing a petroleum tenure holder from the petroleum tenure holder's right of access, or obstructing the holder while the holder carries out activities authorised by the petroleum tenure. However, when entering land to conduct an authorised activity, the petroleum tenure holder must have complied with the private land or public land clauses of this Bill.

As petroleum activities may impinge on the rights of other tenures, land holders etcetera, there is a need to ensure all parties co-operate.

Amendment of s 65 (Reservations in favour of State)

Clause 42 omits references to the permits, as there will be no more permits issued under the *Petroleum Act 1923*.

Omission of pt 7, div 4, heading (Refinery and entry permissions and pipeline licences)

Clause 43 omits the heading for division 4 as pipeline licences and refinery permissions are to be converted to be licences under the *Petroleum and Gas (Production and Safety) Act 2004*.

Omission of ss 66-72

Clause 44 omits sections 66 to 72 as pipeline licences and refinery permissions are to be converted to be licences under the *Petroleum and Gas (Production and Safety) Act 2004*.

Amendment of s 73 (Recovery of amounts payable to the State)

Clause 45 changes the reference from 'under this part' to 'under this Act'.

Replacement of ss 74-82

Clause 46 provides for the replacement of sections 74 to 82. Section 74 can be replaced as the assignment of interest in a pipeline licence or refinery permission is addressed in part 6N. Sections 75 to 82 can be omitted as these provisions relate to pipelines, which are now administered under the *Petroleum and Gas (Production and Safety) Act 2004*.

'Part 6A—Key mandatory conditions and related provisions

'Division 1—Preliminary

'Operation of div 1

Clause 46, section '74 provides for the imposition of mandatory conditions on an authority to prospect to ensure the standardisation of key conditions for all petroleum tenures. The holder of a petroleum tenure is required to comply with key provisions including security, notice of entry and compensation provisions of the Bill.

'Division 2—Specific mandatory conditions for authorities to prospect and related provisions

'Subdivision 1—Standard relinquishment condition and related provisions

'Standard relinquishment condition

Clause 46, section '74A provides for relinquishment of part of the area of the authority to prospect. This relinquishment is to make land available for exploration, via further tender processes, on a regular basis. This is

intended to provide opportunities for new explorers with different exploration concepts. The relinquishment is to be made by way of a notice lodged at a stated place. All late relinquishments take effect as of the due date. The deferral of a relinquishment day under another provision of the Bill, relates only to that day and does not result in a deferral of later relinquishment days or an extension of the term of the authority to prospect. The holder of the authority to prospect can relinquish more than the required amount. Any additional amount can be considered as contributing to the requirement to be met at the next relinquishment day.

'Consequence of failure to comply with relinquishment condition

Clause 46, section '74B provides for a holder who has not met the relinquishment condition to be given a notice to comply with the condition within 20 business days. The authority to prospect is automatically cancelled if the holder fails to comply with the notice. The cancellation does not take effect unless the holder receives a notice stating that the authority to prospect is cancelled. The automatic cancellation is appropriate considering that the relinquishment condition is the only mechanism by which land regularly becomes available to other explorers.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause in that it provides for an automatic cancellation of an authority to prospect without a right of appeal if the holder fails to comply with the relinquishment condition. The holder of an authority to prospect is to be given a notice stating that the holder has 20 business days to comply with the relinquishment condition. The holder of the authority to prospect is aware from the day that the authority to prospect is granted of the relinquishment days.

'Part usually required to be relinquished

Clause 46, section '74C gives the percentage of the number of original notional sub-blocks to be relinquished. The amount is to be one-twelfth (8.33 per cent) per annum resulting in one-third of the original area to be relinquished every four years. The four year period is the maximum time that an authority to prospect can exist without a relinquishment.

‘Sub-blocks that can not be counted towards relinquishment

Clause 46, section ‘74D provides for what land can not be counted as an area relinquished from the authority to prospect for the relinquishment condition. This land includes an area relinquished under an additional or penalty relinquishment, the area the subject of a petroleum lease, and any application for a petroleum lease.

‘Adjustments for sub-blocks that can not be counted

Clause 46, section ‘74E provides that if the amount of land available for relinquishment is less than the amount of land to be relinquished, then the relinquishment condition is considered to have been met. This is to ensure that there is no requirement to relinquish land still subject to the authority, for example, where an application for a petroleum lease has been made and not decided and the land can still be considered to be part of the authority to prospect. If the application for a petroleum lease is not granted, then that land will have to be relinquished to the extent sufficient to meet the relinquishment condition.

‘Relinquishment must be by blocks

Clause 46, section ‘74F provides for the relinquishment to be made by blocks. The relinquishment by blocks ensures the integrity of the administrative process whereby the area of the authority to prospect is related to specific blocks and ensures that a reasonable area unit for exploration is made available. Where a block contains an area that can not be counted as a relinquishment, then only the remainder of the block is required to be relinquished.

‘Ending of authority to prospect if all of it area relinquished

Clause 46, section ‘74G clarifies that the authority to prospect ends if all of the area of the authority is relinquished from the authority to prospect.

‘Subdivision 2—Work programs

‘Requirement to have work program

Clause 46, section ‘74H provides that the holder of an authority to prospect must have an approved work program.

'Compliance with exploration activities in work program

Clause 46, section '74I requires that the holder of an authority to prospect must comply with the approved work program. The work program is the minimum amount of work that the holder must complete during the period for which the work program applies. The holder can undertake work in addition to that in the approved work program. Compliance with any approved work program ensures that the holder maintains a minimum level of exploration in the authority to prospect, and compliance with the initial work program is a key part of maintaining the integrity of the tender process. Failure to comply with the work program is considered to be a significant breach of the mandatory conditions.

'Penalty relinquishment if work program not completed within extended period

Clause 46, section '74J requires that the holder of the authority to prospect must relinquish the proportion of the original notional sub-blocks that corresponds to the amount of work not completed by the end of the extended period.

'Obligation to lodge proposed later work program

Clause 46, section '74K requires that the holder of the authority to prospect must submit a later work program between 20 and 60 business days before the end of the current work program. The requirement to submit a later work program is to ensure that there is sufficient time to assess and approve the later work program, thereby ensuring that there is an obligation to continue to explore the land subject to the authority to prospect. If the later work program has not been approved before the end of the current work program, the holder is not considered to be in breach of the requirement to have an approved work program. The provision of a prescribed late fee is intended to be an incentive to encourage the timely submission of the later work program.

'Consequence of failure to comply with notice to lodge proposed later work program

Clause 46, section '74L provides that on failure to lodge a later work program, as required by the notice given to the holder, the authority to prospect is cancelled.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause in that it provides for an automatic cancellation of an authority to prospect without a right of appeal if the holder fails to submit a proposed later development plan. Clause 46, section '74K(5) requires the holder of the authority to prospect to be given a notice stating that the holder has 20 business days to submit a proposed later development plan. The holder of the authority to prospect is always aware of when their current development plan ends and the requirement to submit a proposed later development plan.

'Subdivision 3—Miscellaneous conditions

'Restriction on flaring or venting

Clause 46, section '74M imposes a condition on the petroleum lease such that the gaseous petroleum can only be flared if it is not technically or commercially feasible to use it. Venting is only permitted if, for safety reasons, it can not be flared or there is a technical reason why the gaseous petroleum can not be flared (that is, where there is insufficient flow from a well to allow ignition or where methane concentrations are low and it is not safe to do so).

'Petroleum royalty and annual rent

Clause 46, section '74N requires that the holder of an authority to prospect pays the annual rent and, if required, royalty on any petroleum produced. The royalty payment is for any petroleum produced as part of the testing program and subsequently sold. This is likely to be the case in relation to the testing of a well in respect to oil production.

‘Division 3—Specific mandatory conditions for leases and related provisions

‘Subdivision 1—Development plans

‘Requirement to have development plan

Clause 46, section ‘74O provides that the petroleum lease holder must have a development plan for the lease.

‘Compliance with development plan

Clause 46, section ‘74P requires the holder of the petroleum lease to comply with their approved development plan. Compliance with the development plan ensures that development of the production of petroleum occurs in a timely and orderly manner. In the case of a petroleum lease being granted as a result of a tender process, compliance with the development plan is essential to ensure the integrity of the tender process. Failure to comply with the development plan is considered to be a significant breach of the mandatory conditions.

‘Obligation to lodge proposed later development plan

Clause 46, section ‘74Q requires that the holder of the petroleum lease must submit a later development plan and the times and occasions when a later development plan is required. A later plan must be submitted six months after the grant of a petroleum lease. This requirement is to ensure that their plan for developing and producing petroleum is consistent with the later development plan requirements. Six month is considered to be an adequate time for the holder to the lease to ensure that the plan meets these later development plan requirements. The later plan must comply with the later development plan requirements. The obligation to submit a later development plan ensures there is always a plan for the orderly production of petroleum for a petroleum lease. The timeframes relating to the submission of the proposed later development plan ensures that there is adequate time to assess and approve the later development plan. The provision of a late fee is intended to be an incentive to encourage the timely submission of the later development plan.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause. The late lodgement fee is proposed to encourage the timely submission of later development plans, by petroleum lease holders, for Ministerial approval. The time for lodgement of a later development plan has been determined with a view to completing the necessary work of assessing, and approving or rejecting the later development plan before the expiry of the current development plan approved for the petroleum lease. The late lodgement of the later development plan greatly reduces the time for this. To discourage the late lodgement of later development plans, and to reduce unnecessary increases in the Minister's and administering department's work loads, a late fee significantly greater than the lodgement fee is proposed. The petroleum lease holder has 40 business days, before the end of the current approved development plan period, to submit the later development plan without incurring the proposed late fee. This is a reasonable timeframe for lodgement, considering the petroleum lease holder has known of this date since the approval of the current development plan. The department will also, as a matter of course, be sending out notices prior to the time for lodgement of the proposed later development plan, advising of the requirement for lodgement, the times for submission, and the late fee payable if the development plan is not submitted within stated timeframes.

'Consequence of failure to comply with notice to lodge proposed later development plan

Clause 46, section '74R provides that on failure to lodge a later development plan as required by the notice given to the holder, the petroleum lease is cancelled.

'Subdivision 2—Other mandatory conditions for leases

'Restriction on flaring or venting

Clause 46, section '74S imposes a condition on the petroleum lease such that the gaseous petroleum can only be flared if it is not technically or commercially feasible to use it. Venting is only permitted if, for safety reasons, it can not be flared or there is a technical reason why the gaseous petroleum can not be flared (that is, where there is insufficient flow from a

well to allow ignition or where methane concentrations are low and it is not safe to do so).

As the intention of this clause is to ensure the best possible use of the gas produced, both from a resource utilisation and a greenhouse gas perspective, the clause also provides that the restriction on venting does not apply in the case where the gaseous petroleum is being used, or is proposed to be used, under a greenhouse abatement scheme. This is to ensure that the clause is not interpreted as changing the baseline level of emissions of carbon dioxide determined under those schemes and so reduce the direct or indirect (such as through a commercial agreement with an electricity generator) benefit available under those schemes. As the name of the listed schemes may change, or new schemes may be introduced that have the same purpose, the clause provides that a regulation may prescribe another scheme not listed.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause. Due to the fact that greenhouse abatement schemes are very specific in nature, and that the relevant clause qualifies what may be prescribed as a scheme, it strictly limits schemes that may be prescribed under regulation to those about the abatement of greenhouse gases.

Further, prescribing another scheme about the abatement of greenhouse gases under a regulation has the advantage of allowing any successive Governments that may administer these two schemes, to change the names of these schemes, without the Queensland Government having to amend the Bill to implement the change of name.

'Obligation to commence production

Clause 46, section '74T provides that the holder of the petroleum lease must commence petroleum production. The specification of a start date for the commencement of production is to ensure that a petroleum lease is granted for the purpose of petroleum production and not as a means to retain land. The requirement to commence production does not apply where the development plan for a petroleum lease only provides for the storing of petroleum in a natural underground reservoir.

‘Division 4—Provisions for all 1923 Act petroleum tenures

‘Subdivision 1—Preliminary

‘Application of div 4

Clause 46, section ‘74U provides for general mandatory conditions for all authorities to prospect and petroleum leases.

‘Subdivision 2—General mandatory conditions

‘Obligation to consult with particular owners and occupiers

Clause 46, section ‘74V requires that the holder of a petroleum tenure must consult with the owners and occupiers of land in the lease area about the carrying out of activities. This consultation is intended to keep the owners and occupiers informed of the timing and extent of authorised activities to be undertaken on the land and thereby assist in the development of good landholder relations. The clause does not exempt the holder of a petroleum tenure from the need to comply with notice of entry and compensation provisions of the Bill.

‘Civil penalty for nonpayment of annual rent

Clause 46, section ‘74W imposes a civil penalty of 15 per cent for the non-payment of the annual rent for a petroleum tenure. The civil penalty is intended to provide an incentive for the timely payment of the rent.

‘Obligation to prevent spread of declared pests

Clause 46, section ‘74X provides for a petroleum tenure holder to do all things reasonably necessary to prevent the spread of the reproductive material of any declared pest, either when conducting authorised activities on the petroleum tenure, or when entering or leaving the petroleum tenure.

‘Requirement to consider using formed roads

Clause 46, section ‘74Y provides for the petroleum tenure holder, when entering land, to consider using formed roads wherever practical. If the holder decides not to use a formed road, the holder must take reasonable steps to consult with the owner of the land before entry.

‘Obligation to comply with Act and prescribed standards

Clause 46, section ‘74Z provides for the obligation to comply with this Bill and prescribed standards. When conducting authorised activities for a petroleum tenure, the holder of the tenure must comply with this Bill, any standard (including any Australian standard, or code, or protocol) provided for by the petroleum tenure that must be complied with when carrying out an activity, and any standard (including any Australian standard, or code, or protocol) prescribed under a regulation in circumstances where the tenure does not provide for a standard for carrying out an activity under the petroleum tenure.

‘Obligation to survey if Minister requires

Clause 46, section ‘75 provides for the Minister, by the issuance of a notice to the petroleum tenure holder, to require the holder to survey or re-survey the area of the tenure within a reasonable period as stated in the notice. All costs must be paid by the holder in compliance with the notice.

‘Division 5—Mandatory conditions and related provisions for when 1923 Act petroleum tenure ends or area reduced

‘Obligation to decommission pipelines

Clause 46, section ‘75A provides for the decommissioning of a pipeline in certain listed circumstances. The holder (or former holder) of a petroleum tenure must decommission the pipeline on the relevant land, in the way prescribed under a regulation, before the land ceases to be in the area of the tenure, or the tenure ends, or at a later date set by the Minister.

The intention of this clause is to ensure that the decommissioning is carried out by the holder and not by the State. However, where another petroleum tenure is granted before the decommissioning day, and this pipeline’s

operation becomes an authorised activity for this tenure, the above requirement for decommissioning a pipeline does not apply.

'Obligation to remove equipment and improvements

Clause 46, section '75B provides for the removal of equipment (which includes machinery or plant) or improvements in certain listed circumstances, even where the equipment or improvements were not owned by the holder.

Where equipment (which includes machinery or plant) or improvements are used for an authorised activity under a petroleum tenure, or for exercising access rights for a tenure, the holder (or former holder) must remove the equipment or improvements from the land prior to the removal day, unless the owner of the land agrees otherwise.

The intention of this clause is to ensure that the removal of the equipment or improvements is conducted by the holder (or former holder) and not by the State, the landowner, nor the occupier of the land.

'Authorisation to enter to facilitate compliance with s 74X or this division

Clause 46, section '75C provides the holder (or former holder) of a petroleum tenure with the right to enter that land subject to the provisions of this division, or to cross other land to enter that land the subject of this division, so that the holder (or former holder) can comply with this division's provisions.

It may be considered that there is a breach of fundamental legislative principles triggered by this clause, as there is a power to enter without warrant, and the effect this entry has on the rights of owners or occupiers. However, although there is no warrant required to enter the land, the occupier or owner of the land generally instigates the procedure for the removal of equipment and improvements and is not too concerned about the procedure for allowing entry onto their land, providing the end result is the removal of the offending equipment or improvements from the subject land. This right of entry is balanced by application of the private land, public land and compensation provisions of the Bill.

It should also be noted that there are two safeguards against any unnecessary effect upon the rights of the occupier or owner drafted in the Bill for this clause. First, the Minister's power under this clause does not extend to allowing entry to a structure, or a part of a structure, used for

residential purposes, without the consent of the occupier of the structure or part of the structure. Second, every attempt must be made by the former holder, who has the entry authorisation, to show the occupier or owner the former holder's authorisation.

'Part 6B—Provisions relating to authorised activities

'General restriction on carrying out authorised activities

Clause 46, section '75D provides for what restrictions the carrying out of an authorised activity for a petroleum tenure or the exercise of the access rights of a petroleum tenure holder are subject to.

'Who may carry out authorised activity for holder

Clause 46, section '75E provides details about who may carry out (exercise) authorised activities for a petroleum tenure. The persons carrying out the authorised activities for the holder must be acting within the scope of the person's authority from the holder. This clause also details how this authority may be implied or expressed.

'Part 6C—Commercial viability assessment

'Minister's power to require commercial viability report

Clause 46, section '75F enables the Minister to request by notice from the holder of a petroleum tenure, a commercial viability report on the whole or part of a tenure. The purpose of the commercial viability report is to provide information on the potential of an area in a petroleum tenure to be able to commercially produce petroleum in the next 15 years. The request must state the reasons why the Minister is of the opinion that commercial production is likely within the next 15 years. The report is intended to provide a detailed assessment of the potential of areas or individual natural underground reservoirs to produce commercial quantities of petroleum.

'Required content of commercial viability report

Clause 46, section '75G provides for the content of a commercial viability report. The data in support of the information and conclusions is also required to accompany the report. The information being sought covers all aspects in relation to the development of the discovery from the amount of petroleum in the natural underground reservoir or the ability to undertake storage through to commercial consideration. The provision of the data and information enables an assessment of the validity of the conclusions in relation to commercial viability of a discovery to produce or store commercial quantities of petroleum.

'Minister's power to obtain independent viability assessment

Clause 46, section '75H enables the Minister to obtain an independent viability assessment in respect to the commercial viability of petroleum production or storage of petroleum. The independent report provides a mechanism for the Minister to determine the viability of production or storage in relation to any discovery and thereby address any public concerns that a resource is currently commercial and is not being developed. The Minister is to advise the holder of the intention to obtain an independent assessment and of any associated costs. This power could be used as a means of verifying the conclusions in the commercial viability report prepared by the holder. The holder being required to pay costs for an independent viability assessment report encourages the petroleum tenure holder to fully address all issues in relation to the commercial viability of any petroleum discovery. The holder has the right to make a written submission on why the Minister should not seek an independent viability report.

'Costs of independent viability assessment

Clause 46, section '75I provides for the circumstances for the recovery of costs of the independent viability assessment to be recovered from the holder. If the holder fails to pay the costs, then these costs can be recovered as a debt.

‘Part 6D—Wells, water supply bores and water observation bores

‘Division 1—Restrictions on drilling

‘Requirements for drilling well

Clause 46, section ‘75J provides for a standard to be described for the drilling of a petroleum well. The standard will assist in ensuring that wells are drilled safely and minimise the potential for damage to natural underground reservoirs or the possibility of adversely affecting future coal mining.

‘Restriction on who may drill water observation bore or water observation bore

Clause 46, section ‘75K requires a licensed water bore driller to drill a water observation bore or water supply bore except for specified exemptions under the *Water Act 2000*. This restriction ensures uniformity of construction techniques for all bores taking or interfering with water in this State.

‘Division 2—Converting well to water supply bore

‘Restrictions on making conversion

Clause 46, section ‘75L allows for a petroleum tenure holder to convert a petroleum well to a water supply bore for the purpose of taking water, provided that the well is modified for the purpose and the modifications are carried out by a licensed water bore driller. This restriction ensures uniformity of construction techniques for all bores taking or interfering with water in this State.

‘Notice of conversion

Clause 46, section ‘75M requires the petroleum tenure holder to lodge a notice advising of the conversion of a petroleum well 10 business days

after the conversion. The lodgement of the notice is to ensure that the current status of the well is known to the department.

‘Division 3—Transfers of wells, water observation bores and water supply bores

‘Subdivision 1—General provisions

‘Operation of div 3

Clause 46, section ‘75N provides for the operation of this division in relation to ownership of work, and control and responsibility in relation to petroleum wells, water observation bores and water supply bores.

‘Transfer only permitted under div 3

Clause 46, section ‘75O requires for all transfers to be undertaken under this division. This requirement ensures that the proper requirements and standards are met in relation to the well or bore being transferred.

‘Effect of transfer

Clause 46, section ‘75P states that if the transfer is completed under this division, then the previous owner no longer has any obligation in respect to the well or bore. This provision ensures that the responsibility of the well or bore remains clearly defined.

‘Subdivision 2—Permitted transfers

‘Transfer of water supply bore or water observation bore to landowner

Clause 46, section ‘75Q provides for the process to transfer a water bore or water supply bore to the landowner. These bores were originally constructed by a licensed water bore driller and there are no additional construction requirements. A notice is required to be lodged with the *Water Act 2000* regulator advising of the transfer. If necessary, a copy of a *Water Act 2000* licence is also required. This submission of the copy of the *Water*

Act 2000 licence ensures that all approvals have been obtained before the bore is transferred to the landowner.

'Transfer of well to holder of geothermal exploration permit or mining tenement

Clause 46, section '75R allows for the transfer of a petroleum well to the holder of a geothermal exploration permit or mining tenement. The well must be in the area of the permit or tenement. The ability to transfer a well is to enable the reuse of a well for other purposes and thereby minimise the impact of activities under the permit or tenement on the land.

'Transfer of water observation bore to 1923 Act petroleum tenure holder

Clause 46, section '75S provides for the transfer of a water observation bore to a petroleum tenure holder or water monitoring authority holder. A water observation bore may be constructed under the authority of a petroleum tenure or water monitoring authority. The area of a tenure or an authority may overlap resulting in the water observation bore being in both the tenure and authority. The holder of either the tenure or authority may want to continue the use of the water observation bore. The ability to transfer an observation bore will avoid duplication of infrastructure and provide a continuation of measurement at a specific site.

'Subdivision 3—Notice of transfer

'Notice of transfer to Water Act regulator or Mineral Resources Act chief executive

Clause 46, section '75T requires for notification of any transfer to be given to the *Water Act 2000* regulator or the *Mineral Resources Act 1989* chief executive as is relevant. The notification is to ensure that the regulator or chief executive is aware that the bore is now under their jurisdiction.

‘Division 4—Decommissioning of wells, water observation bores and water supply bores

‘Obligation to decommission

Clause 46, section ‘75U requires that a petroleum well, water observation bore or water supply bore be decommissioned before the petroleum tenure or water monitoring authority ends. The requirement for the bore to be decommissioned is to ensure that the State does not inherit a liability in relation to a well or bore.

‘Right of entry to facilitate decommissioning

Clause 46, section ‘75V provides for a right of entry to decommission a bore after a petroleum tenure or water monitoring authority ends. This provision enables entry to decommission a well or bore if this obligation had not been met before the tenure or authority ended.

‘Responsibility for well or bore after decommissioning

Clause 46, section ‘75W provides for the responsibility for a well or bore upon decommissioning. A well or bore remains the responsibility of the holder of a petroleum tenure or water monitoring authority until the tenure or authority ends. Provided the well or bore is decommissioned according to the prescribed standard, the well or bore is transferred to the State upon the ending of the tenure or authority. The State’s ownership of the well or bore enables them to be subsequently transferred to the landowner or the holder of a geothermal exploration permit or mining tenement holder. This enables the reuse of the petroleum well or bore and therefore reduces the likelihood of additional impacts upon the land.

‘Part 6E—Reporting

‘Division 1—General reporting provisions

‘Requirement to report outcome of testing

Clause 46, section ‘75X provides for the results of production testing on petroleum tenures to be submitted to the office stated in this clause within the timeframes stated in this clause.

‘Notice about discovery and commercial viability

Clause 46, section ‘75Y provides for when a petroleum tenure holder makes a petroleum discovery, that the tenure holder must lodge a notice of discovery with the office detailed in this clause within the timeframes stated in this clause. This clause also provides that the discovery notice must state the geological significance of the discovery.

‘Relinquishment report

Clause 46, section ‘75Z provides for a relinquishment report to be submitted to the office stated in this clause within the timeframes stated in this clause. A relinquishment report provides details on areas relinquished (as required by the provisions of this Bill), or other areas of a petroleum tenure voluntarily surrendered (providing these areas do not consist of the whole of the area of a petroleum tenure). The report must include details about the authorised activities for the petroleum tenure carried out in the relinquished or surrendered area, the results of these activities, and any other matters prescribed under a regulation.

‘End of tenure report

Clause 46, section ‘76 provides for an end of tenure report to be submitted to the office stated in this clause within the timeframes stated in this clause. An end of tenure report provides details on that area of the petroleum tenure that was within the petroleum tenure immediately before it ended (called the “relevant area”). The report must include details about the authorised activities for the petroleum tenure carried out in the relevant area, the results of these activities, and any other matters prescribed under a regulation. However, the end of tenure report need not contain details of,

or the results, of activities for which a report has already been submitted to the relevant office under this Bill (for example, details of, or the results, of activities already provided within an annual report required under the provisions of this Bill).

'Division 2—Records and samples

'Requirement to keep records and samples

Clause 46, section '76A provides for a petroleum tenure holder to keep records and samples (as prescribed under a regulation), obtained from authorised activities conducted within the petroleum tenure, for a period prescribed under a regulation. These samples or records may include such things as samples of core or fluid obtained from drilling activities, or the results of the analysis of these core or fluid samples.

'Requirement to lodge records and samples

Clause 46, section '76B provides for a petroleum tenure holder to lodge a record or sample (as provided for in the previous clause) to the office stated in this clause within the timeframes stated in this clause. This clause also provides for the Minister to require the lodgement of more of a sample in the timeframes stated in this clause.

'Division 3—Releasing required information

'Meaning of *required information*

Clause 46, section '76C defines required information as information in any form, about authorised activities carried out under a petroleum tenure, that the holder has lodged to comply with various provisions of this Bill. For example, records and samples submitted as required by the Bill.

'Public release of required information

Clause 46, section '76D provides for the chief executive to release any required information to the public, after the end of the confidentiality period (prescribed by regulation) has passed, irrespective of whether the petroleum tenure the required information relates to has ended or not. Any

confidentiality period, prescribed under a regulation, ceases if the required information relates to an authorised activity conducted on the area of a petroleum tenure that is no longer within the area of the tenure.

For example, a well may have been drilled within a petroleum tenure and a well completion report about this drilling may have been submitted to the required office. Then, the area the well was drilled in was relinquished from the tenure. The chief executive may then, if the confidentiality period has not ended, release the report to the public.

'Chief executive may use required information

Clause 46, section '76E provides for the chief executive to use any required information for purposes related to this Bill, irrespective of whether the petroleum tenure the required information relates to has ended or not. This is for the betterment of the geoscientific information available about the State.

'Obligation to lodge annual reports

Clause 46, section '76F provides for the lodgement of an annual report, containing information about all matters relating to the petroleum tenure prescribed under a regulation. This annual report must be lodged with the office stated in this clause within the timeframes stated in this clause. When a petroleum tenure ends, this clause also provides that a report is required for the period from when the last annual report was due to be submitted to the office stated in this clause, to the end of the authority.

'Power to require information or reports about authorised activities to be kept or given

Clause 46, section '76G provides for a regulation, or the chief executive, for services to the State, to require a petroleum tenure holder to keep (as prescribed under a regulation) stated information or types of information, obtained from authorised activities conducted within the petroleum tenure (or any access rights exercised for the authority). This clause also provides for a regulation, or the chief executive, for services to the State, to require a petroleum tenure holder to lodge a notice with stated information, types of information or stated reports at stated times or intervals, about activities conducted within the petroleum tenure (or any access rights exercised for the authority). This stated information may include exploration data and conclusions based on this data. Any of this information or reports, that are

required to be lodged with a notice, must be submitted to the office stated in this clause.

‘Part 6F—Provisions for coal seam gas

‘Division 1—Preliminary

‘Subdivision 1—Introduction

‘Main purposes of pt 6F

Clause 46, section ‘76H provides details of the main purposes of this chapter and refers to those parts of other Acts which together make up the coal seam gas regime. The purposes of this part rely on, the effect of and interrelationships with those parts to be effective. While ideally the optimal outcome would be to extract all commercial quantities of coal seam gas from the coal before any coal is mined it is recognised that there may be situations where extraction of all petroleum and coal resources in a particular area may not be possible. This is because at any point in time the extraction of one resource may be of greater overall benefit than extraction of both resources over a period of time. Optimisation of resource production may also not be possible because the other purposes of the regime, particularly the safety, certainty and future mineability requirements, have taken precedence.

‘How main purposes are achieved

Clause 46, section ‘76I outlines the processes and additional requirements to achieve the purposes of the coal seam gas regime.

‘Relationship with other provisions of Act

Clause 47, section ‘76J ensures that the provisions for the coal seam gas regime detailed in this chapter apply to the relevant exploration and development tenures as well as the relevant provisions of the chapters stated in this clause and that the provisions contained in this chapter prevail

when there is any inconsistency with the other provisions of the chapters stated in this clause.

'Subdivision 2—Definitions for pt 6F

'What is *coal seam gas* and *incidental coal seam gas*

Clause 46, section '76K defines coal seam gas and incidental coal seam gas. The meanings of these terms are defined, as they are used regularly throughout this part.

'What is *oil shale*

Clause 46, section '76L defines oil shale. The meaning of this term is defined, as it is used regularly throughout this part.

'What is a *coal exploration tenement* and a *coal mining lease*

Clause 46, section '76M defines coal exploration tenement and coal mining lease for this part. The meanings of these terms are defined, as they are used regularly throughout this part. The definition of coal mining leases includes the leases granted under two special agreements Acts to ensure the application of the regime to those Acts.

'What is an *oil shale exploration tenement* and an *oil shale mining lease*

Clause 46, section '76N defines oil shale exploration permit and oil shale mining lease for this part. The meanings of these terms are defined, as they are used regularly throughout this part.

'What is a *coal or oil shale mining tenement*

Clause 46, section '76O defines a coal or oil shale mining tenement for this part. The meaning of this term is defined, as it is used regularly throughout this part.

‘Division 2—Additional provisions for authorities to prospect

‘Subdivision 1—Grant of authority to prospect in area of coal or oil shale exploration tenement

‘Provisions for authority to prospect

Clause 46, section ‘76P allows for overlapping exploration tenements to be granted. That is exploration permits for coal or oil shale under the *Mineral Resources Act 1989* and authorities to prospect under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*. The clause also provides that if a coal or oil shale exploration tenement holder has already commenced an authorised activity in their tenement, then an authority to prospect holder can not interfere with, or adversely impact on, the carrying out of that activity.

‘Subdivision 2—Restriction on authorised activities on coal mining lease or oil shale mining lease land

‘Application of sdiv 2

Clause 46, section ‘76Q provides that this subdivision applies when land within the area of a coal mining lease or oil shale mining lease is in the area of an authority to prospect, or is subject to a data acquisition authority.

‘Restriction

Clause 46, section ‘76R provides that an authority to prospect holder or a data acquisition authority holder can only undertake authorised activities on their authority, on any land of an overlapping mining lease only when the coal mining lease or oil shale mining lease holder has agreed in writing to the activity.

‘Subdivision 3—Condition

‘Compliance with obligations under Mineral Resources Act

Clause 46, section ‘76S makes the obligations for consultation and negotiation and other relevant matters in the *Mineral Resources Act 1989* conditions of the authority to prospect which the authority to prospect holder must comply with.

‘Division 3—Renewal provisions

‘Subdivision 1—Lease area overlapping with coal or oil shale exploration tenement

‘Application of sdiv 1

Clause 46, section ‘76T provides that this subdivision applies where the holder of a petroleum lease applies for renewal of the lease and all or part of the land in the area of the lease is in the area of a coal or oil shale exploration tenement held by someone other than the holder of the authority to prospect, and the tenement holder does not consent to the renewal. If the underlying tenement holder provides consent, or in any other tenure overlap situations, then these provisions do not apply and only the section 45 renewal requirements would apply. Note the additional later development plan requirements would apply to the proposed later development plan provided with the renewal application.

‘Additional requirements for making application

Clause 46, section ‘76U requires the application to include additional material, over and above the regular section 45 application requirements. This additional material includes a CSG statement, and information that addresses the CSG assessment criteria. The CSG assessment criteria are later considered when making a preference decision. These criteria include the requirements of the safety provisions; that the development plan requirements have been adequately addressed particularly those relating to overlapping coal tenements; and the legitimate business interests criterion, which is intended to elicit details of the potential impact of granting the

renewal of the lease would have on the relevant tenure holders interest in the land, including related commercial obligations or interests.

‘Content requirements for CSG statement

Clause 46, section ‘76V details the requirements of a CSG statement, which includes details on how the proposed production of petroleum will impact on the future development of the coal or oil shale resource and a proposed safety management plan. The proposed safety management plan must detail how potential adverse impacts on possible future safe and efficient mining will be minimised. In many cases compliance with the regulations may achieve this outcome.

‘Applicant’s obligations

Clause 46, section ‘76W makes provisions about the obligations of the ATP-related petroleum lease applicant with respect to the coal or oil shale exploration tenement holder. These obligations include providing a copy of the petroleum lease application to the coal or oil shale exploration tenement holder; consulting with the exploration tenement holder and, as negotiated, changing the proposed petroleum lease’s development plan to give effect to reasonable provisions made by the exploration tenement holder; and making appropriate arrangements with the exploration tenement holder about the exploration tenement holder’s bulk sampling and other advanced testing that is being, or is proposed to be, carried out. The applicant is obligated to this where it is technically and commercially feasible for the petroleum lease applicant to do so. With respect to changing the proposed development plan it is intended that the lease applicant only give effect to any reasonable proposal, as there may be a number of ways of achieving the proposed outcome.

The applicant is also obliged to allow the exploration tenement holder time to complete or commence testing they may have been conducting or were planning to conduct (such as a bulk sample), or exploratory work that they need to complete in order to have sufficient data to meet the requirements for making application for a mineral development licence. This obligation is limited to 12 months.

‘Minister may require further negotiation

Clause 46, section ‘76X provides for the Minister to require further negotiation between the petroleum lease applicant and the coal or oil shale

exploration tenement holder, to ensure that the applicant makes appropriate changes to the development plan to reflect the reasonable proposals of the coal exploration tenement holder, and makes a reasonable arrangement with the authority holder about bulk sampling and other advanced testing proposed by the tenement holder.

'Consequence of applicant not complying with obligations or requirement

Clause 46, section '76Y provides the Minister with the power to refuse the lease application if the previously mentioned obligations have not been complied with.

'Obligations of coal or oil shale exploration tenement holder

Clause 46, section '76Z makes provisions about the obligations of the coal or oil shale exploration tenement holder to give the ATP-related petroleum lease applicant certain information. When given a copy of the application and accompanying development plan for the petroleum lease, the exploration tenement holder must negotiate with the petroleum lease applicant, and make reasonable attempts to reach agreement about amendments to the proposed development plan for the petroleum lease.

'Submissions by coal or oil shale exploration tenement holder

Clause 46, section '77 makes provisions for the coal or oil shale exploration tenement holder to make a submission to the Minister about the ATP-related petroleum lease application. The Minister must have regard to this submission in deciding the petroleum lease application.

'Subdivision 2—Renewal application by petroleum lease holder

'Application ofs div 2

Clause 46, section '77A provides for this subdivision to apply where an application to renew a petroleum lease that overlaps a coal mining lease or oil shale mining lease by someone other than the coal mining lease or oil shale mining lease holder. In this situation the consent of the mining lease holder will be required before the petroleum lease can be renewed. This

subdivision also applies if the petroleum lease is applied for over both a coal or oil shale exploration tenement and a coal mining lease or oil shale mining lease, and the coal or oil shale exploration tenement and a coal mining lease or oil shale mining lease are held by the same person.

‘Additional requirement for making application

Clause 46, section ‘77B includes additional requirements, over and above the regular application requirements, for a petroleum lease application made in this subdivision. These additional requirements include a CSG statement, and an initial development plan that complies with both the development plan requirements and the additional coal seam gas requirements of this Bill.

‘Power to split application if it includes other land

Clause 46, section ‘77C makes provisions for when a petroleum lease application is made over land which is not within the tenure area of a coal or oil shale mining tenement. In this case, the mining lease application may be separated, into two applications so that the application that covers land not in a coal or mining tenement is only determined under the other simpler processes provided for under this Bill. The separate applications can not proceed until all the application requirements are met for each new application.

‘Power to split application at applicant’s request

Clause 46, section ‘77D provides that if the applicant requests, the lease application can be considered as two applications so that they can be considered under different parts of the chapter stated in this clause, or for them to be considered separately under the chapter stated in this clause and this chapter.

‘Notice to coal mining lease holder or oil shale mining lease holder

Clause 46, section ‘77E requires the petroleum lease applicant to notify the coal mining lease or oil shale mining lease holder of the petroleum lease application.

‘Coal mining lease holder’s or oil shale mining lease holder’s obligation to negotiate

Clause 46, section ‘77F requires the coal mining lease or oil shale mining lease holder to negotiate with the petroleum lease applicant, and make reasonable attempts to reach a coordination arrangement, providing it is technically and commercially feasible for the coal mining lease or oil shale mining lease holder to reach an arrangement. While the coal mining lease or oil shale mining lease holder is obligated to negotiate to see if an agreement can be reached, there is no obligation to reach an agreement.

‘Additional requirements for grant

Clause 46, section ‘77G sets out the additional requirements for the grant of the petroleum lease. The lease can only be granted if the lease applicant has reached agreement with the mining lease holder (and thus the mining lessee consents to the grant of the petroleum lease). The agreement in the form of a coordination arrangement must be approved by the Minister. The mining lease holder must have also agreed with the proposed safety management plan for the petroleum lease. In order that applications do not remain unresolved for excessive periods, if the requirements of this clause are not met, or if there are no reasonable prospects for a coordination arrangement to be made, the Minister may refuse the application.

‘Subdivision 3—Renewal application by coal mining lease holder or oil shale mining lease holder

‘Application of sdiv 3

Clause 46, section ‘77H provides that this subdivision applies where a petroleum lease is applied for over a prior coal mining lease or an oil shale mining lease by, or jointly with, the coal mining lease or an oil shale mining lease holder. This covers the situation where the holder of a mining lease for coal is applying for a petroleum lease to commercialise the mining of incidental coal seam gas or where a mining lease holder with the mineral hydrocarbon wishes to gain greater rights with respect to commercialising gas from the lease.

‘Additional requirement for making application

Clause 46, section ‘77I makes additional requirements for a petroleum lease application under this subdivision. These additional requirements include a CSG statement and an initial development plan that complies with both the initial development plan requirements proposed for this Bill, and the additional coal seam gas development plan requirements detailed in this chapter.

‘Power to split application if it includes other land

Clause 46, section ‘77J makes provisions for when a petroleum lease application is made over land which is not within the tenure area of a coal or oil shale mining tenement. In this case, the petroleum lease application may be separated, into two applications so that the application that covers land not in a coal or mining tenement is determined only under the simpler processes of the chapter detailed in this clause. The separate applications can not proceed until all the application requirements are met for each new application.

‘Power to split application at applicant’s request

Clause 46, section ‘77K provides that if the applicant requests, the lease application can be considered as two applications so that they can be considered under different parts of the chapter detailed in this clause, or for them to be considered separately under the chapter detailed in this clause and this chapter.

‘Right to grant if particular requirements met

Clause 46, section ‘77L provides for a right to grant. The lease will be granted if the relevant requirements for the grant of petroleum leases have been met and the conditions of the coal or oil shale exploration tenement have been substantially complied with.

Where the tenure area of the petroleum lease overlaps with the tenure area of an existing authority to prospect, the lease is limited such that the authority holder’s written agreement is needed to carry out any authorised activity other than the extraction of incidental coal seam gas.

‘Provisions of renewed lease

Clause 46, section ‘77M provides for additional matters that must be considered when determining the provisions of the lease. These include the development plan and the provisions for the relevant mining lease. Where the land of the petroleum lease will include land for an authority to prospect held by another party, the interests and any development proposals of that party and the likelihood of any agreement about coordinated development of all the petroleum in the land must also be considered.

‘Division 4—Other additional provisions for leases

‘Subdivision 1—Conditions

‘Compliance with obligation to negotiate with coal or oil shale mining lease applicant

Clause 46, section ‘77N provides that the obligation to negotiate with the coal or oil shale mining lease applicant under the *Mineral Resources Act 1989* is a condition of the petroleum lease, to which the petroleum lease holder must comply.

‘Requirement for giving of copy of relinquishment report

Clause 46, section ‘77O provides that where there is a relinquishment condition on a petroleum lease and the relinquishment is made, that a relinquishment report must accompany the relinquishment notification. This clause also provides that a copy of the relinquishment report must be given to the relevant coal or oil shale exploration tenement holder and anyone else who has applied for a coal mining lease or oil shale mining lease over that part being relinquished.

‘Cessation of relinquishment condition for area not overlapping with coal or oil shale exploration tenement

Clause 46, section ‘77P provides that where there is a relinquishment condition on a petroleum lease, the condition no longer applies if that area of land is no longer within an overlapping coal or oil shale exploration tenement.

‘Subdivision 2—Amendment of relinquishment condition by application

‘Application of sdiv 2

Clause 46, section ‘77Q provides that this subdivision applies if a petroleum lease has a relinquishment condition and there is an overlapping coal or oil shale exploration tenement over part or all of the area of the petroleum lease.

‘Conditions for applying to amend

Clause 46, section ‘77R provides for the petroleum lease holder to apply to the Minister to amend the relinquishment condition on their lease. An application to amend can only be made if consultation has already been undertaken with the coal or oil shale exploration tenement holder, and that reasonable provisions (where they are technically and commercially feasible to do so) have been incorporated into the relinquishment application and development plan.

‘Obligation of coal or oil shale exploration tenement holder to negotiate

Clause 46, section ‘77S requires the coal or oil shale exploration tenement holder to negotiate with the petroleum lease holder, and make reasonable attempts to reach agreement about the proposed changes such that the best resource utilisation outcome is achieved without significant impact or other parties rights or interests.

‘Requirements for making application

Clause 46, section ‘77T details the requirements of an application by the petroleum lease holder to amend the relinquishment condition for their lease. These include a CSG statement, whether the current development plan has been undertaken, a later development plan, results of the consultation undertaken with coal or oil shale exploration tenement holder and whether their proposals have been included in any later development plan.

‘Notice of application

Clause 46, section ‘77U requires the applicant to give a copy of the application to the coal or oil shale exploration tenement holder immediately after making the application.

‘Submissions by coal or oil shale exploration tenement holder

Clause 46, section ‘77V provides for submissions to be made by the coal or oil shale exploration tenement holder, about the application by the petroleum lease holder to amend the relinquishment condition for their lease. The tenement holder must provide a copy of their submission to the applicant. The Minister will have regard to the exploration tenement holder’s submissions when deciding this application.

‘Minister may require further negotiation

Clause 46, section ‘77W provides for the Minister to require further negotiation between the petroleum lease holder and the coal or oil shale exploration tenement holder, to come to an agreement about the changes proposed in the application by the petroleum lease holder to amend the relinquishment condition for their lease. The applicant must use all reasonable attempts to comply with this negotiation requirement and if they do not the Minister may refuse the application. No appeal has been provided as the Minister will have already provided an opportunity for further negotiation and for the two parties to reach agreement.

‘Deciding amendment application

Clause 46, section ‘77X sets out the matters the Minister must consider in deciding the application by the petroleum lease holder to amend the relinquishment condition for their lease. These include whether the petroleum lease holder has taken all reasonable steps to comply with the relinquishment condition. It is intended that the amendment of relinquishment condition for a petroleum lease would only be approved if there were very good reasons for the relinquishment not being met (such as if the resource is still being commercially produced or production has been delayed by *force majeure* reasons). The impact of any delay or change in relinquishment on the development of the coal or oil shale resource should be carefully considered.

‘Subdivision 3—Restriction on amendment of conditions

‘Interests of relevant coal or oil shale mining tenement holder to be considered

Clause 46, section ‘77Y provides for the Minister, when amending the conditions of a petroleum lease, to consider the interests of any coal or oil shale mining tenement holder.

‘Division 5—Restrictions on particular transfers

‘Requirement for coordination arrangement to transfer lease in tenure area of mining lease

Clause 46, section ‘77Z restricts, in certain circumstances, the approval of the transfer of a holding in a petroleum lease. Where land in the tenure area of a petroleum lease, is also land within the tenure area of a coal mining lease or oil shale mining lease, the transfer of a holding in the petroleum lease, can not be approved unless the new party is a party to a coordination arrangement. This provision is included because it is a fundamental principal of the coal seam gas regime that overlapping petroleum leases and coal mining leases or oil shale mining leases can only co-exist over the same land where there is agreement between each and all of the parties.

‘Division 6—Proposed later development plans

‘Additional criteria for deciding whether to approve

Clause 46, section ‘78 sets out what the Minister must consider when deciding to approve a later development plan for a petroleum lease, and the tenure area of the petroleum lease includes whole or part of the tenure area of a coal or oil shale mining tenement. The criteria to be considered include the CSG assessment criteria and the effect on the relinquishment condition for the lease if the later development plan is approved.

‘Division 7—Confidentiality of information

‘Application of div 7

Clause 46, section ‘78A provides that the division applies where a tenure holder gives another tenure holder information as a result of requirements of this part subject to any agreement the holders may have.

‘Confidentiality obligations

Clause 46, section ‘78B provides that where a tenure holder gives another tenure holder information as a result of requirements of this part, this information must not be disclosed to anyone else other than the operator of the tenure and can only be used for the purpose for which it was given, unless the consent of the other holder is given. A tenure holder can only use the information for the purposes it was given under this part and may not use the information for commercial gain.

‘Civil remedies

Clause 46, section ‘78C confirms that it is intended that the obligation in the preceding section is a statutory duty and that civil remedies should be sought if the confidentiality obligations are not met.

‘Part 6G—Security

‘Operation and purpose of pt 6G

Clause 46, section ‘78D provides for the Minister to require security for a petroleum tenure or a proposed petroleum tenure. The minimum amount for each petroleum tenure will be prescribed under a regulation. The security given ensures compliance with this Bill and any authority issued pursuant to this Bill, or secures any amounts payable by the holder, such as rent, penalties imposed for breaches and royalty to the State, under this Bill. The security may also be used to pay compensation to an owner or occupier of land, where the person authorised by the chief executive has entered this land to exercise remedial powers, and the owner or occupier of the land has suffered a cost, damage or loss because of the exercise of these remedial powers.

‘Power to require security for 1923 Act petroleum tenure

Clause 46, section ‘78E provides that the Minister may, at any time, require the prescribed amount of security from a petroleum tenure holder (or proposed holder) in the prescribed form.

‘Minister’s power to require additional security

Clause 46, section ‘78F provides that the Minister may, at any time, require an increased amount of security from a petroleum tenure holder. The procedure to require additional security involves the Minister giving the petroleum tenure holder a notice stating the proposed requirement, and inviting the holder to make written submissions about the requirement within a stated period that must not be less than 20 business days.

The Minister must consider any written submission from the petroleum tenure holder received within the stated period before making the requirement. This clause also states when this requirement takes effect.

‘Interest on security

Clause 46, section ‘78G provides for the State to keep any interest that accrues on cash securities given for petroleum authorities under this part.

‘Power to use security

Clause 46, section ‘78H provides for the State to use the security given for a petroleum tenure and any interest accrued on cash securities, for matters detailed in this part.

‘Replenishment of security

Clause 46, section ‘78I provides that the Minister may, at any time and in a reasonable way, amend the amount of security to replenish any of the utilised security in order to maintain the determined security level for a petroleum tenure, or may require another amount of security to be given for the petroleum tenure.

‘Security not affected by change in holder

Clause 46, section ‘78J provides that any security held for a petroleum tenure remains as security for the petroleum tenure and may be used by the State, irrespective of whether there has been a transfer of, or any change in,

percentage holdings for the petroleum tenure. The name of the holder of any unconditional financial institution security, or similar instrument, given as security for a petroleum tenure, is taken to have changed as a consequence of the change in the holder. If and when the security is to be refunded, it will be refunded to that holder of the petroleum tenure that was noted in the register as being the last holder of the authority before it ended.

'Retention of security after 1923 Act petroleum tenure ends

Clause 46, section '78K allows for the security given for a petroleum tenure to be held for one year after the petroleum tenure has ended. If there is a claim for an amount of this security and this claim has not been properly assessed, this claimed amount may be held until such time as the claim has been properly assessed.

'Part 6H—Private Land

'Division 1—Preliminary

'Application of pt 6H

Clause 46, section '78L describes the application of this part.

'Division 2—Requirement for entry notice for entry to private land in area of 1923 Act petroleum tenure

'Requirement for entry notice to carry out authorised activities

Clause 46, section '78M lists the restrictions on entry to carry out authorised activities. Authorised activities for petroleum tenures can not be carried out on private land unless an entry notice has been given to each owner and occupier of the land at least 10 business days before the proposed entry.

However, a person may enter private land to carry out authorised activities without giving an entry notice, where the entry is required because of a dangerous or emergency situation that exists (or may exist) on the land

proposed to be entered. In these circumstances, the person must, if practicable, notify each owner and occupier of the land verbally before entering the land.

A person may also enter private land to carry out authorised activities without giving an entry notice, however each owner and occupier must agree to the entry with the person (called a waiver of entry notice).

'Waiver of entry notice

Clause 46, section '78N lists the requirements for a waiver of entry notice. The waiver of entry notice may be given only by signed writing and state that the owner or occupier has been told that it is not compulsory that they have to agree to the waiver, list the authorised activities proposed to be carried out on the land, the period of entry, and when and where on the land the activities are proposed to be carried out.

During the period of entry stated in the waiver of entry notice, the owner or occupier can not withdraw the waiver of entry notice. The entry consent ceases to have effect after the period of entry stated in the waiver of entry notice.

'Required contents of entry notice

Clause 46, section '78O outlines the required contents of an entry notice. Each of the following must be stated in an entry notice:

- the land proposed to be entered (generally described as lot-on-plan);
- the period of entry on the land (called the entry period);
- the proposed authorised activities on the land stated in this entry notice;
- where (specifically on the land previously described) and when (specific periods within the previously identified entry period) the authorised activities are proposed to be carried out; and
- the contact details of the holder of the petroleum tenure, or the contact details of a person authorised to discuss the matters stated in the entry notice.

The entry period can not be longer than six months (where the entry notice is for an authority to prospect) or 12 months for a petroleum lease, unless each relevant owner and occupier agrees in writing to a longer period.

Where an authorised activity proposed by a petroleum tenure holder is unlikely to significantly disrupt the day-to-day activities the occupier of the land normally carries out on the land, the notice of entry requirements about proposed authorised activities (and where and when the authorised activities are proposed to be carried out) may be complied with by generally describing the nature and extent of the activities.

An information statement in the approved form, containing the rights and obligations of a petroleum tenure holder, occupiers and owners in relation to the entry of land under a petroleum tenure, must be included with (or accompany) the entry notice.

'Giving entry notice by publication

Clause 46, section '78P provides for the chief executive to approve, in certain listed circumstances, the giving of an entry notice by publication.

In some cases, particularly those relating to certain authorised activities proposed under pipeline and survey licences, it is more practical for an entry notice to be given by publication, rather than having to give each owner and occupier the entry notice individually.

However, the chief executive must be reasonably satisfied that the publication of the notice is reasonably likely to adequately inform each of the owners and occupiers of land the subject of the entry notice, about the proposed entry, at least 10 business days prior to this entry occurring.

Where the chief executive has approved the giving of an entry notice by publication, the published entry notice must state where a copy of the information statement, which would normally have been included with or accompanied the entry notice, may instead be obtained or inspected free of charge.

'Division 3—Requirement for further notice before carrying out authorised activities on private land

'Application of div 3

Clause 46, section '78Q describes the application of this division.

‘Requirement to give further notice

Clause 46, section ‘78R provides that the petroleum tenure holder is to give the owner and occupier notification as to the accurate identification of where the activities are to be carried out. The clause also specifies when the notice is to be given.

‘Failure to give further notice

Clause 46, section ‘78S specifies the maximum penalty for failure to give the notice. However, failure to give the notice does not restrict the carrying out of authorised activities.

‘Division 4—Provisions for dealings or change in ownership or occupancy

‘Entry notice or waiver of entry notice or access agreement not affected by permitted dealing

Clause 46, section ‘78T states that a dealing with a petroleum tenure (that is, a transfer or a mortgage) does not affect an entry notice, waiver of entry notice or access agreement given or made for a petroleum tenure.

‘Change in ownership or occupancy

Clause 46, section ‘78U applies where there has been a change of occupancy or ownership after an entry notice has been given for a petroleum tenure. In this case, the holder of the relevant petroleum tenure is taken to have given a notice to the new owner or occupier, and the holder of a relevant petroleum tenure is not required to give the new owner or occupier a notice at least 10 business days before entry. Also, the change of ownership or occupancy does not affect the entry period stated in the notice.

Where a waiver of entry notice has previously been given by a petroleum tenure holder and agreed to by the owner and occupier of the subject land, and the ownership or occupancy of this land changes, the new owner or occupier is taken to have agreed to that waiver of entry notice.

When the holder of a relevant petroleum tenure becomes aware that there has been a change to the occupancy or ownership of the land the subject of an entry notice or a waiver of entry notice, the petroleum tenure holder

must (within 15 business days of becoming aware of the change), give a copy of the entry notice or waiver of entry notice to the new owner or occupier.

If the holder does not give a copy of the entry notice or waiver of entry notice to the new owner or occupier within 15 business days of becoming aware that there has been a change to the occupancy or ownership of the land the subject of an entry notice or a waiver of entry notice, then the allowances under the clause cease to apply, and the provisions of this Bill relating to entry consents and entry notices then apply.

'Division 5—Periodic notice after entry of land

'Notice to owners and occupiers

Clause 46, section '78V applies when a petroleum tenure holder has entered private land to conduct authorised activities, or access land has been entered to exercise the rights over the land. The petroleum tenure holder is required to give a notice about authorised activities conducted on the land and where these activities were carried out. If no authorised activities were conducted, the notice must state this fact.

This notice must be given to each owner and occupier of the land within three months after the end of those relevant periods stated in this clause for entry notices and waiver of entry notices.

'Division 6—Access to carry out rehabilitation or environmental management

'Right of access for authorised activities includes access for rehabilitation and environmental management

Clause 46, section '78W provides that the holder of a petroleum tenure has the right to enter private land to carry out rehabilitation or environmental management while the tenure is current.

‘Part 6I—Public land

‘Division 1—Public roads

‘Subdivision 1—Preliminary

‘Significant projects excluded from div 1

Clause 46, section ‘78X states that this division does not apply to a petroleum tenure that is, or is included in, a project declared under the *State Development and Public Works Organisation Act 1971*, to be a significant project. However, this does not limit, or otherwise affect, the conditions the Coordinator-General may recommend for the petroleum tenure pursuant to part 4, division 7 of the *State Development and Public Works Organisation Act 1971*.

‘What is a ***notifiable road use***

Clause 46, section ‘78Y defines the meaning of notifiable road use for a petroleum tenure and details threshold rates.

‘Subdivision 2—Notifiable road uses

‘Notice of notifiable road use

Clause 46, section ‘78Z provides for a notice to be given to a public road authority, by a petroleum tenure holder, where the petroleum tenure holder proposes to use the road for a notifiable road use. This clause also details when the notice is to be given, and what contents the notice must contain.

‘Directions about notifiable road use

Clause 46, section ‘79 provides for a “road use direction” to be given to the petroleum tenure holder by the public road authority. This road use direction is to contain details about the way the notifiable road use is to be carried out, or is proposed to be carried out. Besides stating that the road use direction must be reasonable, it also states what the road use direction must be about.

This clause also provides that the road use direction may require the petroleum tenure holder to carry out an assessment of the impacts likely to arise from the notifiable road use and to consult with the public road authority in carrying out the assessment. However, this clause also outlines when the assessment is not required.

'Obligation to comply with road use directions

Clause 46, section '79A provides for it to be a condition of the petroleum tenure that the authority holder complies with the road use direction, unless there is a reasonable excuse.

'Subdivision 3—Compensation for notifiable road uses

'Liability to compensate public road authority

Clause 46, section '79B provides for compensation to be paid by a petroleum tenure holder, to a public road authority, for damage caused, or that may be caused, by notifiable road uses. This liability is called the holder's "compensation liability" to the public road authority.

'Compensation agreement

Clause 46, section '79C provides for the petroleum tenure holder and the public road authority to enter into an agreement (called a "compensation agreement"). This clause also outlines what the compensation agreement relates to, what it must detail, and lists other matters that may be addressed by the agreement.

'Deciding compensation through tribunal

Clause 46, section '79D provides for the public road authority or the petroleum tenure holder to apply to the Land and Resources Tribunal to decide the compensation liability. The Land and Resources Tribunal may only decide compensation that is not subject to a compensation agreement. This clause also details what the Land and Resources Tribunal must have regard to when deciding the compensation application.

‘Criteria for decision

Clause 46, section ‘79E provides details about what the Land and Resources Tribunal must take into account when deciding a compensation liability.

‘Tribunal review of compensation

Clause 46, section ‘79F provides for the public road authority or the petroleum tenure holder to apply to the Land and Resources Tribunal to review the original compensation agreement between the petroleum tenure holder and the public road authority, agreed to by these two parties or as determined by the Land and Resources Tribunal. However, there must have been a material change in circumstances since the agreement or decision.

This clause also outlines what details the Land and Resources Tribunal must have regard to in making the review decision, and provides for the Land and Resources Tribunal to either confirm the original agreement or decision, or amend it in a way the Land and Resources Tribunal sees fit.

‘Compensation to be addressed before carrying out notifiable road use

Clause 46, section ‘79G provides for it to be a condition of a petroleum tenure that no notifiable road use may be carried out on a public road, unless a compensation agreement is in place, the public road authority has given written authorisation to the petroleum tenure holder to conduct the notifiable road use, or that an application has been made to the Land and Resources Tribunal to make a decision about compensation. This clause also provides that the written authorisation must be given for each renewal of the petroleum tenure.

‘Compensation not affected by change in administration or holder

Clause 46, section ‘79H provides that the compensation agreement or decision about compensation liability binds all parties to it and each of their personal representatives. The agreement also binds all successors and all assignees.

‘Division 2—Other public land

‘Requirement for entry notice to carry out authorised activities

Clause 46, section ‘79I provides for an entry notice to be given to the public land authority before carrying out authorised activities for the authority to prospect or petroleum lease. The entry notice does not have to be given if the public can carryout an activity that does not require approval of the public land authority. The requirement that the petroleum tenure holder gives at least 30 business days notice is to ensure that the public land authority has adequate time to consider the conditions that the public land authority can impose under other sections of this Bill. There is no restriction on entry if the entry is required to preserve life or property in relation to an emergency. This provision does not apply to the notifiable road use as there are specific provisions in the legislation that deals with this issue.

‘Waiver of entry notice

Clause 46, section ‘79J enables the public land authority to waiver the requirement for an entry notice to be given each time that there is an entry onto public land. This waiver is required to be in writing and state the authorised activities to be undertaken. The period of the waiver is also to be stated. The ability to waiver the requirement for an entry notice is intended to provide for an arrangement suitable to all parties.

‘Required contents of entry notice

Clause 46, section ‘79K outlines the required contents of an entry notice. Each of the following must be stated in an entry notice:

- the land proposed to be entered (generally described as lot-on-plan);
- the period of entry on the land (called the entry period);
- the proposed authorised activities on the land stated in this entry notice;
- where (specifically on the land previously described) and when (specific periods within the previously identified entry period) the authorised activities are proposed to be carried out; and

- the contact details of the holder of the petroleum tenure, or the contact details of a person authorised to discuss the matters stated in the entry notice.

The entry period can not be longer than six months (where the entry notice is for an authority to prospect) or 12 months for a petroleum lease, unless the public land authority agrees in writing to a longer period.

Where an authorised activity proposed by a petroleum tenure holder is unlikely to significantly disrupt the day-to-day activities the public land authority normally carries out on the land, the notice of entry requirements about proposed authorised activities (and where and when the authorised activities are proposed to be carried out) may be complied with by generally describing the nature and extent of the activities.

'Conditions public land authority may impose

Clause 46, section '79L enables the public land authority to impose relevant and reasonable conditions in relation to entry onto public land. The conditions imposed by the public land authority approval can not be the same or substantially the same as, or inconsistent with, a condition of the petroleum tenure or the relevant environmental authority for the petroleum tenure. If the public land authority is chief executive of the department administering the *Nature Conservation Act 1992*, then the chief executive can impose more stringent conditions in order to protect the relevant environmental values of the land. This clause also provides for the public land authority to give an information notice to the petroleum tenure holder, if the public land authority sets a condition in the public land authority approval that has not been agreed to or requested by the petroleum tenure holder.

'Part 6J—Access to land in area of another 1923 Act petroleum tenure or a mining tenement

'Application of pt 6J

Clause 46, section '79M details this part applies to land outside the area of a petroleum tenure (called the first tenure), that is within the area of another

petroleum tenure or a mining tenement (called the second tenure). This clause also provides that if this land is also private land or public land, then this part does not limit the private land or public land provisions of this chapter.

'Access to land in area of lease under this Act or a mining lease

Clause 46, section '79N provides that when the holder of the first authority wishes to enter land within the area of a petroleum lease or mining lease, then the first authority holder must obtain the written consent of the petroleum or mining lease holder before entering the subject land. The first authority holder is then required to lodge a notice, with the office as stated in this clause, stating that the written consent of the mining or petroleum lease holder has been given.

'Access to land in area of another type of mining tenement or 1923 Act petroleum tenure

Clause 46, section '79O provides for when the holder of the first tenure wishes to enter land within the area of a petroleum tenure or mining tenement that is not a petroleum lease or mining lease (called the "second authority"). The first tenure holder may cross the land or carry out activities on the land that are reasonably necessary to allow the crossing of the land to access the first authority, or carry out activities that are reasonably necessary to allow the crossing of the land to access the first authority (for example, opening a gate) providing the written consent of the second authority holder is first obtained. However, this clause also provides that the right to cross the land of the second authority, or the carrying out of reasonable activities necessary to allow the crossing of the second authority, may only be exercised if it does not adversely affect the carrying out of an authorised activity for the second authority.

'Part 6K—General compensation provisions

'General liability to compensate

Clause 46, section '79P provides that each petroleum tenure holder is liable for compensation, to each relevant owner or occupier of private and public land (called an eligible claimant), for any compensatable effect the eligible

claimant suffers because of authorised activities for the petroleum tenure, or that is caused by the exercise of access rights over access land for the authority, or consequential damages the eligible claimant incurs because of a compensatable effect. This clause also outlines what a compensatable effect is, what a relevant owner or occupier is and what a compensation liability is. Note, however, that this clause does not apply for a public land authority in relation to a notifiable road use, or a compensatable effect caused by the exercise of an underground water right.

The intention of this clause, particularly in defining what is a compensatable effect, was to align it with, where possible, the compensation provisions of the *Mineral Resources Act 1989*. The *Mineral Resources Act 1989* provides for the Land and Resources Tribunal to settle the amount of compensation an owner of land is entitled to, as compensation for various things that may occur to the owner's land because of the activities proposed for the mining lease.

'Compensation agreement

Clause 46, section '79Q provides for the holder of the petroleum tenure and an eligible claimant to enter into an agreement (called a "compensation agreement"). This compensation agreement may relate to all or part of the compensation liability or future compensation liability of the petroleum tenure holder to the eligible claimant. The clause outlines various matters that must be addressed in the compensation agreement, and various matters that may be addressed in the compensation agreement. This clause also provides that if the petroleum tenure is a pipeline licence or a petroleum facility licence that the compensation agreement may be included in the easement relating to the licence.

'Deciding compensation through tribunal

Clause 46, section '79R provides for either the eligible claimant or the petroleum tenure holder to apply to the Land and Resources Tribunal to determine the compensation liability or future compensation liability to the eligible claimant. The Land and Resources Tribunal can only determine the compensation liability or future compensation liability to the eligible claimant to the extent it is not already covered in a compensation agreement.

‘Tribunal review of compensation

Clause 46, section ‘79S provides for either the eligible claimant or the petroleum tenure holder to apply to the Land and Resources Tribunal to review the original compensation agreement if there has been a material change in circumstances. This clause also provides for the Land and Resources Tribunal to amend or confirm the original compensation agreement.

‘Orders tribunal may make

Clause 46, section ‘79T provides for the Land and Resources Tribunal to make appropriate orders it sees fit to enforce any decision made by it under this part of the Bill, and may order monetary or non-monetary compensation.

‘Compensation to be addressed before entry to private land

Clause 46, section ‘79U provides that the holder of a petroleum tenure (except a survey licence or a petroleum facility licence), must not enter private land unless the holder owns the land, or unless an eligible claimant for the land is a party to a compensation agreement with the authority holder, or an application has been made to the Land and Resources Tribunal for deciding a compensation agreement, or an emergency situation exists, or unless an eligible claimant for the land is a party to an agreement (called a deferral agreement) that allows for a compensation agreement to be entered into after the entry. This clause also outlines details about the deferral agreement.

‘Compensation not affected by change in ownership or occupancy

Clause 46, section ‘79V provides that the compensation agreement or the Land and Resources Tribunal decision about compensation binds all parties to it. The agreement or decision also binds all future successors and assignees for the area of the petroleum tenure until the authority ends.

‘Part 6L—Ownership of pipelines, equipment and improvements

‘Division 1—Pipelines

‘Application of div 1

Clause 46, section ‘79W provides for the application of this division to pipelines operated or constructed under a petroleum tenure.

‘General provision about ownership while tenure is in force for pipeline

Clause 46, section ‘79X provides the circumstances when a pipeline is taken to be, or remains, the personal property of the holder of a petroleum tenure.

‘Ownership afterwards

Clause 46, section ‘79Y outlines what happens to the ownership of the pipeline when the relevant petroleum tenure ends, or the land on which the pipeline is constructed ceases to be in the area of the petroleum tenure. The clause is also subject to any condition of the former petroleum tenure or any takeover or other condition of the former licence, and provides that if the pipeline is decommissioned, the petroleum tenure holder, or former petroleum tenure holder, may dispose of it to anyone else.

‘Division 2—Equipment and improvements

‘Application of div 2

Clause 46, section ‘79Z provides for the application of this part to equipment taken on to, or improvements placed on, land in the area of a petroleum tenure that is in force, and to equipment or improvements taken on or used for an authorised activity for a petroleum tenure that is in force.

‘Ownership of equipment and improvements

Clause 46, section ‘80 provides the circumstances when equipment or improvements is taken to be, or remains, the personal property of the holder of a petroleum tenure.

‘Part 6M—Petroleum register

‘Petroleum register

Clause 46, section ‘80A provides for the chief executive to keep a register about petroleum authorities, coordination arrangements, and any other documents related to this Bill that the chief executive considers appropriate (for example, mortgages over petroleum tenures and other dealings as defined under this Bill).

‘Keeping of register

Clause 46, section ‘80B provides for the chief executive to keep the register in the way the chief executive considers appropriate. This may include keeping the register in an electronic form. This clause also provides a requirement for the chief executive to amend the register to reflect changes to any information recorded in the register, and when the change is to be made. The chief executive must record when the information was amended and, for certain listed dealings, when the approval for the dealing took effect.

‘Access to register

Clause 46, section ‘80C requires the chief executive to keep the petroleum register open for public inspection during certain listed times, lists the places the register may be inspected, allows a person to take extracts from the register for free, and allows a person to obtain (for a fee commensurate with costs incurred in giving the person a copy of the register) a copy of the register (or part of it).

The only information in the petroleum register that must not be inspected by the public is exempt matter as defined in the *Freedom of Information Act 1992*.

‘Chief executive may correct register

Clause 46, section ‘80D provides for the chief executive to correct the petroleum register, providing the chief executive is satisfied about certain listed matters, and the chief executive also records the details of the register before the correction and the time, date and circumstance of the correction.

‘Part 6N—Dealings

‘Division 1—Permitted dealings

‘What is a permitted dealing

Clause 46, section ‘80E provides a listing of permitted dealings that may be recorded on the register.

‘Dealings other than permitted dealings of no effect

Clause 46, section ‘80F provides a listing of prohibited dealings.

‘Conditions for permitted dealings

Clause 46, section ‘80G provides for a permitted dealing to be approved, or it has no effect. This clause also provides that when a dealing is approved, it takes effect on the day the dealing is concluded, or a later day for effect (if this is provided for in its approval).

‘Division 2—Obtaining approval for permitted dealing

‘Minister may give indication for proposed permitted dealing

Clause 46, section ‘80H provides for the Minister to indicate the Minister’s likelihood of approving a permitted dealing. The Minister may impose conditions on the dealing as a prerequisite to approving the dealing.

This clause was drafted to allow for a party to a proposed dealing to obtain an indication from the Minister about whether the dealing may be approved. An example of when this indication may be required is when a

pipeline licence holder wishes to sell the subject pipeline by tender. The holder may seek an indication from the Minister about whether the Minister is likely to approve the transfer and if conditions are likely to be imposed on the transfer, what these conditions are likely to be.

This allows for a number of matters to be addressed, including whether there are any unresolved financial or data matters that need to be finalised by the holder to keep the licence in good standing prior to the sale, and gives a reasonable indication to the applicant for the tender that the Minister may transfer the licence if their tender is successful.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause. Although there are no appeal rights on the merits against any decision about obtaining an indication from the Minister that a dealing may be approved, or any decision about imposing conditions for the indication, the party may still apply for approval of the dealing pursuant to section ‘80I. This is irrespective of whether the indication was approved or not, or the conditions imposed by the Minister were met or not. When a decision is made by the Minister to refuse the application for approval of a dealing pursuant to section ‘80I, a right of appeal has been provided for against that refusal.

‘Applying for approval

Clause 46, section ‘80I provides for the holder of the relevant petroleum tenure, pipeline, or interest, to apply to the Minister in the approved form (which must be lodged at the office stated in this clause) for approval of the permitted dealing. This clause also provides details about what is to accompany the application for the dealing.

‘Deciding application

Clause 46, section ‘80J provides for the Minister to decide to grant or refuse the application for a permitted dealing or, in certain listed circumstances, when the Minister must approve the permitted dealing.

‘Criteria for decision

Clause 46, section ‘80K provides details of the matters the Minister must consider, before deciding whether to approve the permitted dealing.

‘Part 6O—Enforcement of end of tenure and area reduction obligations

‘Power of authorised person to ensure compliance

Clause 46, section ‘80L provides for the chief executive, when a petroleum tenure holder has not decommissioned petroleum wells or pipelines, or has not removed equipment or improvements, to authorise a person (called an “authorised person”) to enter land and do all things necessary to ensure the remedial requirement is complied with and enter any other land to cross for access to the other land. The authorisation given to the authorised person must be in writing and may be given on conditions the Minister sees as appropriate. This clause also provides that the authorised person can not enter residential structures without the consent of the occupier.

‘Requirements for entry to ensure compliance

Clause 46, section ‘80M provides for a notice of entry to be given 10 business days before the entry to land for remedial purposes. This notice must be given to the occupier of the land (if the land has an occupier) or to the owner of the land (if the land has no occupier). This clause also provides details about what information the notice must detail, and provides for the chief executive to approve, in certain listed circumstances, the giving of the entry notice by publication. Also, this clause provides that if the occupier of the land is present on the land when remedial activities are about to take place, the authorised person must show the occupier of the land the person’s authorisation.

It may be considered that there is a breach of fundamental legislative principles triggered by this clause, as there is a power to enter without warrant, and the effect this entry has on the rights of owners or occupiers. However, although there is no warrant required to enter the land, the occupier or owner of the land generally instigates the procedure for the decommissioning of a petroleum well or pipeline, or removal of equipment and improvements, and will not generally be concerned about the procedure for allowing entry onto their land, providing the end result is the decommissioning of the petroleum well or pipeline, or removal of the offending equipment or improvements from the subject land.

There are two safeguards against any unnecessary effect upon the rights of the occupier or owner drafted in the Bill for this clause. First, the chief executive’s power under this clause does not extend to allowing entry to a

structure, or a part of a structure, used for residential purposes, without the consent of the occupier of the structure or part of the structure. Second, every attempt must be made, by the authorised person who has the entry authorisation, to show the occupier or owner the authorisation.

It should also be noted that each owner and occupier of the subject land is to be given a detailed notice about the entry to the subject land 10 business days before the actual entry is to occur.

'Duty to avoid damage in exercising remedial powers

Clause 46, section '80N provides that the authorised person is to take as reasonable care as is practicable not to cause too much inconvenience nor create too much damage.

'Notice of damage because of exercise of remedial powers

Clause 46, section '80O provides for the authorised person, if in exercising remedial powers the person damages land or something on the land, to give a notice of damage to the owner and occupier of the land, where possible. The notice must state the particulars of the damage, and that pursuant to the provisions in the Bill about compensation for the exercising of remedial powers, the owner or occupier may claim compensation from the State.

'Compensation for exercise of remedial powers

Clause 46, section '80P provides details about an owner or occupier claiming compensation arising from a loss because of the exercise of remedial powers.

'Ownership of thing removed in exercise of remedial powers

Clause 46, section '80Q provides that when exercising remedial powers and a thing is removed, the thing becomes the property of the State, and the State may deal with it by destroying it, giving it away, or selling it.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause, as there is an effect on the property rights of the holder or the former holder. However, it is envisaged that provisions in the Bill (General provisions for conditions and authorised activities) will be the first legislative step taken by the Minister when requiring the former petroleum tenure holder to enter land previously within the area of the petroleum tenure or access land, to remove equipment and improvements

from the subject land. It is also envisaged that the second legislative step will be for the chief executive to give authority to a person to decommission a petroleum well or pipeline, or remove equipment and improvements from the subject land.

The exercise of these remedial powers on the subject land is to keep good faith with the landholders of Queensland; they have some legislative guarantee that if, where the previous authority holder has failed to decommission a petroleum well or pipeline, or remove equipment and improvements, that the chief executive can authorise someone to rectify this failure.

Neither the State, nor the landholder, should be expected to cover the costs of this remediation, which may be more than the amount of the security that is held for the subject petroleum tenure. Consequently, the thing removed should become the property of the State, so that the costs of removal and sale may be recovered at no expense to the landholder or the State.

Nonetheless, this clause still provides for the return of the proceeds of the sale, less the costs of the remediation and the sale, to the former owner of the thing.

‘Recovery of costs of and compensation for exercise of remedial power

Clause 46, section ‘80R provides for the State to recover costs and compensation, brought about by the exercise of the remedial powers, as a debt.

‘Part 6P—Noncompliance procedure

‘Division 1—Introduction

‘Operation of pt 6P

Clause 46, section ‘80S provides a process for action against holders of an authority (including a licence or authorisation) for noncompliance. It is noted that this part does not limit the ability to take other noncompliance actions.

‘Division 2—Noncompliance action

‘Types of noncompliance action that may be taken

Clause 46, section ‘80T provides that noncompliance action may include reducing the term of the authority, amending or imposing conditions, suspension or cancellation of the authority or, in the case of tenure, taking such actions as reducing the tenure area or withdrawing the work program approval. This clause also provides for a monetary penalty to be used in place of other actions in some cases.

‘When noncompliance action may be taken

Clause 46, section ‘80U provides for details about when noncompliance action can be taken. These reasons include the authority being obtained falsely, a noncompliance with the Bill, the failure to pay an amount due and other reasons associated with improper actions under a tenure authority.

‘Division 3—Procedure for noncompliance action

‘Application of div 3

Clause 46, section ‘80V provides for noncompliance actions other than immediate suspension.

‘Notice of proposed noncompliance action

Clause 46, section ‘80W provides that the relevant official give notice to the authority holder that a noncompliance action will be taken, what action is proposed, and details of the facts and grounds for the action. The notice must include provision for the holder to lodge a submission about the proposal within a stated period, which must not be less than 20 business days.

‘Considering submissions

Clause 46, section ‘80X provides that the relevant official must consider any submission made and, if no further action is contemplated, advise the authority holder.

‘Decision on proposed noncompliance action

Clause 46, section ‘80Y provides for the relevant official, once any submissions have been considered, to take the proposed action.

‘Notice and taking effect of decision

Clause 46, section ‘80Z provides that an authority holder must be given notice of the noncompliance decision and the date it takes effect.

‘Consequence of failure to comply with relinquishment requirement

Clause 46, section ‘81 provides for a holder of an authority to prospect who has not met the relinquishment condition to be given a notice to comply with the condition within 20 business days. The authority to prospect is automatically cancelled if the holder fails to comply with the notice. The automatic cancellation is appropriate considering that the relinquishment condition is the only mechanism by which land regularly becomes available to other explorers.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause in that it provides for an automatic cancellation of an authority to prospect without a right of appeal if the holder fails to comply with the relinquishment condition. The holder of an authority to prospect is to be given a notice stating that the holder has 20 business days to comply with the relinquishment condition. The cancellation does not take effect until the holder has been given a notice. The holder of the authority to prospect is aware from the day that the authority to prospect is granted of the relinquishment days.

‘Part 6Q—Other common provisions for 1923 Act petroleum tenures’

Amendment of s 83 (Restrictions on location of drills)

Clause 47 provides for the removal of references to permittee as petroleum prospecting permits will no longer be issued under the *Petroleum Act 1923*. The restriction on the location of the drill has been amended to reflect the

grant of petroleum tenures under the *Petroleum and Gas (Production and Safety) Act 2004*.

Amendment of s 84 (Prevention of waste etc.)

Clause 48 provides for the removal of references to permittee as petroleum prospecting permits will no longer be issued under the *Petroleum Act 1923*.

Amendment of s 85 (Casting well)

Clause 49 provides for the correction of a grammatical error in the heading and the removal of references to permittee as petroleum prospecting permits will no longer be issued under the *Petroleum Act 1923*.

Amendment of s 86 (Water rights)

Clause 50 provides for the removal of references to permittee as petroleum prospecting permits will no longer be issued under the *Petroleum Act 1923*. The supply of water to owners and occupiers is to be restricted to the supply for stock and domestic purposes only. This restriction is a reflection of the owners and occupiers statutory right under the *Water Act 2000*.

Omission of s 87 (Abandonment of well)

Clause 51 provides for the omission of *Petroleum Act 1923* section 87 as the requirements for the abandonment of a well are provided for in the new part 6D to be inserted by clause 46.

Amendment of s 88 (Conduct of operations on land)

Clause 52 provides for the removal of references to permittee as petroleum prospecting permits will no longer be issued under the *Petroleum Act 1923*.

Amendment of s 89 (Compliance with Act etc.)

Clause 53 provides for the removal of references to permittee as petroleum prospecting permits will no longer be issued under the *Petroleum Act 1923*.

Amendment of s 90 (Regulations may prescribe further provisions)

Clause 54 provides for the removal of references to permittee as petroleum prospecting permits will no longer be issued under the *Petroleum Act 1923* and provides the section to apply to 1923 Act petroleum tenures.

Omission of s 91 (Minister's powers concerning petroleum)

Clause 55 provides for the omission of *Petroleum Act 1923* section 91 as issues in relation to the distribution of petroleum, especially in cases of insufficiency of supply, are addressed in the *Gas Supply Act 2003.*

Amendment of s 92 (Delivery of premises in case of forfeiture)

Clause 56 provides for the removal of references to permittee as petroleum prospecting permits will no longer be issued under the *Petroleum Act 1923*.

Amendment of s 93 (Right to mine for other minerals)

Clause 57 provides for the omission of *Petroleum Act 1923* section 93 as the ability to explore for and mine other minerals is provided for under the *Mineral Resources Act 1989.*

Amendment of s 95 (Limits on use of water from natural source)

Clause 58 provides for the removal of references to permittee as petroleum prospecting permits will no longer be issued under the *Petroleum Act 1923* and to change the reference from the warden to the Land and Resources Tribunal.

Amendment of s 96 (Who bound by terms of permits and leases etc.)

Clause 59 provides for the removal of references to permittee as petroleum prospecting permits will no longer be issued under the *Petroleum Act 1923.*

Omission of ss 97-99

Clause 60 provides for the omission of *Petroleum Act 1923* sections 97 to 99 as new compensation provisions exist in new part 6K, as inserted by clause 46.

Replacement of ss 101 and 102

Clause 61 omits sections and replaces them with new sections in the Bill.

‘Minister’s power to ensure compliance by 1923 Act petroleum tenure holder

Clause 61, section ‘101 provides for the Minister to ensure compliance by a petroleum tenure holder, where the holder of a petroleum tenure has not complied with a requirement under this Bill, and no other provision of this Bill allows someone other than the holder to ensure compliance with the requirement. This clause provides for the Minister, by issuing a notice containing the details listed in this clause, to do any action the Minister considers appropriate to ensure all or part of the requirement is complied with once the Minister has considered submissions given by the petroleum tenure holder in response to the notice.

‘Interest on amounts owing to the State under this Act

Clause 61, section ‘102 provides for interest to accrue, and become available to the State, when any amounts (such as rent, a civil penalty for non-payment of rent, or an annual licence fee) are owing under this Bill. This clause provides details of the amount of interest and when the interest commences to accrue.

‘Recovery of unpaid amounts

Clause 61, section ‘103 provides for the State to recover an amount, including interest, as a debt, when a provision of this Bill requires the petroleum tenure holder to pay this amount (and any interest).

‘Part 7—Appeals

‘Who may appeal

Clause 61, section ‘104 provides that a person whose interests are affected by a review decision may appeal against the decision to the industrial court or District Court or, depending on the decision, may appeal the decision to the court or tribunal (called the “appeal body”) outlined in a schedule in the Bill.

‘Period to appeal

Clause 61, section ‘105 details when an appeal must commence, and allows for the appeal body to extend the appeal making period.

‘Starting appeal

Clause 61, section ‘106 outlines how an appeal is started.

‘Stay of operation of decision

Clause 61, section ‘107 provides the appeal body the ability to grant a stay of the decision. This clause also lists the conditions of the stay and provides that the period of a stay is not to extend past the time when the appeal body decides the appeal. The appeal affects the decision, or the carrying out of the decision, only if the decision is stayed.

‘Hearing procedures

Clause 61, section ‘108 provides for the appeal hearing procedure, which must be in accordance with the rules for the appeal body, or by directions of the appeal body where the rules make no provision for the appeal. The appeal is by way of rehearing.

‘Tribunal’s powers on appeal

Clause 61, section ‘109 provides for how the appeal body may confirm a decision, set aside and substitute another decision, or set aside and return the issue to the original decider with appropriate directions from the appeal body.

Where the appeal body sets aside and substitutes another decision, the substituted decision is taken to be the original decider’s decision.

‘Part 8—Evidence and legal proceedings

‘Division 1—Evidentiary provisions

‘Application of div 1

Clause 61, section ‘110 describes when this division applies.

‘Appointments and authority

Clause 61, section ‘111 provides that it is not necessary to prove the appointment of an inspector or authorised officer, or their power to do anything under the Bill.

‘Signatures

Clause 61, section ‘112 provides that a signature purporting to be the signature of an official is evidence of the signature it claims to be.

‘Other evidentiary aids

Clause 61, section ‘113 provides that a certificate, purporting to be signed by the chief executive and stating certain matters as outlined in this clause, are to be taken as evidence of the matter.

‘Division 2—Offence proceedings

‘Offences under Act are summary

Clause 61, section ‘114 provides that offences against this Bill are summary offences. This clause also provides that a proceeding for an offence against safety management plans, other safety obligations, or restrictions on gas work provisions of the Bill must be brought before an industrial magistrate and can be started only by complaint of the chief inspector or someone else authorised by the Minister, with the *Industrial Relations Act 1999* applying to this proceeding. This clause also provides for when and where a proceeding for an offence must be brought.

‘Statement of complainant’s knowledge

Clause 61, section ‘115 provides that, in the case of a complainant initiating a proceeding, a statement that the matter of the complaint came to the complainant’s knowledge on a stated day, is evidence that the matter came to the complainant’s knowledge on that day.

‘Allegations of false or misleading matters

Clause 61, section ‘116 applies to a proceeding for an offence involving a false or misleading document, statement or information.

‘Conduct of representatives

Clause 61, section ‘117 applies to a proceeding for an offence if it is relevant to prove a person’s, (or an actual or apparent representative of a person’s) state of mind.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause, as there is a reversal on the onus of proof. However, it is appropriate that a person, who is in a position to influence the conduct of their representative, should be accountable for offences committed against provisions of this Bill by the representative. However, it should be noted that there are defences within this provision relating to whether the person was in a position to influence the representative’s conduct in relation to the offence or, if the person was in this position, that the person exercised reasonable diligence to ensure the representative complied with the provision.

‘Additional orders that may be made on conviction

Clause 61, section ‘118 provides for additional orders a court may make on the conviction of a person for an offence against this Bill, including forfeiture of certain things to the State.

Insertion of new pt 9, divs 1-3

Clause 62 inserts new part 9, divisions 1 to 3.

‘Division 1—Applications

‘Application of div 1

Clause 62, section ‘119 provides for the application of this division.

‘Substantial compliance with application requirements may be accepted

Clause 62, section ‘120 provides that a person who has to decide an application may accept an application where all the requirements of the application have not been met; providing the person believes that the application substantially complies with the requirements.

‘Additional information may be required about application

Clause 62, section ‘121 provides for a person who is making a decision about an application (called the “decision maker”) to request further information about an application, the decision maker requires to properly assess the application. The decision maker may also require the applicant to supply a statutory declaration verifying any information within the application, or verifying any further information requested under this clause.

Where the application is for a petroleum tenure, the decision maker may also require a survey or re-survey of the area. The survey must be carried out in a manner approved by the Minister, and by a person who is registered as a cadastral surveyor under the *Surveyors Act 2003*.

Further, the decision maker may refuse an application if the applicant does not give the required information or the statutory declaration about the application to the chief executive within the required timeframe.

All costs in complying with this clause must be borne by the applicant.

‘Amending applications

Clause 62, section ‘122 provides for a person who has made an application under this Bill to amend the application before it has been decided, providing the decision maker agrees to the amendment.

Where the amendment to the application is to change an applicant, all other applicants must agree to this change. The amended applicant will then be

considered an applicant from the making of the application, for the purposes of deciding the application.

This clause also provides that if the application is a tender for a petroleum tenure, the proposed work program or development plan can not be amended after the applicant has become the preferred tenderer for the tender, or the tender can not otherwise be amended after the closing of tenders.

'Withdrawal of application

Clause 62, section '123 provides for an applicant to withdraw an application, by giving a notice to the official making a decision about the application. Generally, this notice must be made before the application is decided or, in the case of an application for a petroleum tenure, before the authority is granted. The withdrawal of the application by the applicant takes place when the notice of withdrawal is given.

If the applicant is the preferred tenderer for a call for tenders, the withdrawal of the application does not affect the Minister's power to decide other applications in response to the same call for tenders.

'Minister's power to refund application fee

Clause 62, section '124 provides for the Minister to refund whole or part application fees upon the refusal or withdrawal of an application.

'Division 2—Miscellaneous provisions for 1923 Act petroleum tenures

'Power to correct or amend

Clause 62, section '125 provides the power for an official, who has issued an authority, to amend an authority at any time, with certain restrictions. For example, the official may amend the authority to correct a clerical or formal error, and record the particulars of the amendment in the petroleum register, by issuing a notice to the holder of the authority.

The official may also amend the authority by issuing a notice to the holder of the authority, and making the amendment, if it does not affect the interests of the holder or anyone else and the holder has agreed to the amendment in writing.

However, this clause does not apply for a mandatory condition for, or the term of the authority, or for an amendment to a work program (for an authority to prospect) or development plan (for a petroleum lease).

The official can not amend the authority if the authority (as amended) would be inconsistent with the mandatory conditions applying to that type of authority.

'Replacement of instrument for tenure

Clause 62, section '126 allows for the replacement of an original authority or licence, where the original authority or licence has been lost, destroyed or stolen.

The authority holder must apply for a replacement authority or licence to the official who issued the authority. The official must consider the application and, if reasonably satisfied that the authority or licence has been lost, destroyed or stolen, replace the authority or licence.

If the official decides to refuse the application, the official must give the applicant an information notice about why the application was refused.

'Joint and several liability for conditions and for debts to State

Clause 62, section '127 states that if more than one person holds an authority, each holder is jointly and severally responsible for complying with the conditions of the authority and liable for all debts payable under this Bill and unpaid by the holder of the authority to the State.

'Notice of agent

Clause 62, section '128 provides for an official to refuse to deal with a person claiming to be acting as an agent for an authority holder, unless the authority holder has given the official a notice, stating that the agent is representing the holder.

'Division 3—Other miscellaneous provisions

'Name and address for service

Clause 62, section '129 provides for a person, who has lodged a signed notice at the office stated in this clause, to nominate another person at a

stated address as being the address for the service of a notice or other document for this Bill.

'Additional information about reports and other matters

Clause 62, section '130 provides for an official to request further written information about advice given to the official. This request can be given by the official by a notice, given to a person previously requested under this Bill to give a notice, copy of a document, report, or information; and the person has given the official this notice, copy of a document, report, or information. The person must comply with the official's notice within a reasonable timeframe as stated in this notice.

'References to right to enter

Clause 62, section '131 provides for what the right to enter covers and enables the petroleum tenure holder to do.

'Application of provisions

Clause 62, section '132 provides the relationship with another provision of the Bill, another law, or a provision of another law, if those other provisions or laws apply.

'Protection from liability for particular persons

Clause 62, section '133 provides when a "relevant person" (an official, a public service officer or employee, a contractor carrying out activities relating to the administration of this Bill, or a person who is required to comply with a direction or requirement given under this Bill) may be protected from civil liability for an act done, or omission made, honestly and without negligence under this Bill. If a civil liability is prevented from being attached to a "relevant person", the liability instead attaches to the State. A definition of "civil liability" is also provided for in this clause.

'Delegation by Minister or chief executive

Clause 62, section '134 provides for the Minister, chief executive or chief inspector to delegate their respective powers under this Bill. This clause also provides to whom the Minister, chief executive or chief inspector can delegate their respective powers to under this Bill. The Minister and the chief executive may delegate their respective powers to an inspector or,

with the Minister's approval, to an appropriately qualified public service officer or employee, or an appropriately qualified contractor carrying out activities, relating to the administration of this Bill, for the department. The chief inspector may delegate the chief inspector's powers to an inspector or, with the Minister's approval, to an appropriately qualified public service officer or employee, or an appropriately qualified contractor carrying out activities, relating to the administration of the Bill, for the department.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause, as it may be perceived that it is not appropriate to delegate the Minister's, chief executive's or chief inspector's powers to a contractor. However, there are restrictions in this clause that require the contractor to be appropriately qualified and be carrying out activities pursuant to the administration of this Bill for the department administering the Bill. It is envisaged that the Minister's, chief executive's or chief inspector's powers will be delegated to a contractor in rare and unusual circumstances, such as when an inspector, or public service officer or employee, is not considered suitably qualified to be delegated such powers. Note also that the chief inspector can not delegate powers to a contractor unless approval to do so is first obtained from the Minister.

'Approved forms

Clause 62, section '135 provides for the chief executive to approve forms for use under the Bill, and for the chief inspector to approve forms for use under the parts of the Bill that deal with fuel gas quality and characteristics for consumers, petroleum and fuel gas measurement, safety, and investigations and enforcement.

Amendment of s 144 (Interference with pipeline etc.)

Clause 63 provides for the amendment of section 144 of the *Petroleum Act 1923* to remove reference to refinery operated under the Act. This change is necessary as an oil refinery will be licensed under the *Petroleum and Gas (Production and Safety) Act 2004* or under an Act specifically relating to the refinery.

Omission of s 144A-146

Clause 64 provides for the omission of sections 144A to 146 of the *Petroleum Act 1923*. These sections can be omitted as new provisions

relate to the impact of authorised activities on supply of underground water and access rights. The approval of a prospectus, especially in respect to its accuracy, is no longer an issue to be addressed under this legislation but under the *Corporations Act 2001* (Cwlth).

Amendment of s 148 (Other rights of action not affected)

Clause 65 provides for a standardisation of the wording in relation to the *Mineral Resources Act 1989* in this Bill.

Replacement of s 149 (Regulation-making power)

Clause 66 replaces the section in the *Petroleum Act 1923*.

‘Regulation-making power

Clause 66, section ‘149 provides for the standardisation of the regulation making power with that in the *Petroleum and Gas (Production and Safety) Act 2004*.

Amendment of s 150 (Declaration about certain permits, leases and licenses)

Clause 67 amends section 150 of the *Petroleum Act 1923* to reflect the deletion of prospecting permits and the future administration of pipeline licences under the *Petroleum and Gas (Production and Safety) Act 2004*.

Insertion of new pt 10 and schedule

Clause 68 provides for the insertion of a new part 10 into the *Petroleum Act 1923*. Notes on the provision in part 10 are given below.

‘Part 10—Transitional provisions for 1923 Act petroleum tenures from 2004 Act start day

‘Division 1—General transitional provisions

‘Subdivision 1—Particular unfinished applications

‘Unfinished authority to prospect applications for which a Commonwealth Native Title Act s 29 notice has been given

Clause 68, section ‘151 provides for an application for an authority to prospect for which a notice under section of the *Native Title Act 1993* (Cwlth) section 29 has been issued before the start day to be granted under the *Petroleum Act 1923*. This is to ensure that the grant is made under the Act to which the section 29 notice referred. The Minister does not have to grant the authority to prospect if the Minister is satisfied that the initial work program requirements have not been met. The need to meet these requirements ensures that the new policy for the administration of the petroleum exploration is implemented from the start day irrespective of under which legislation an authority to prospect is administered.

‘Additional condition of authority to prospect granted under s 151

Clause 68, section ‘152 requires an authority to prospect holder to notify the coal or oil shale exploration tenement holder (or coal or oil shale exploration tenement applicant) of the grant of an authority to prospect, which overlaps the tenement within 20 business days of the tenement being granted.

‘Lapsing of unfinished former s 42 applications

Clause 68, section ‘153 provides for the lapsing of an application under the *Petroleum Act 1923* section 42 for a petroleum lease. Section 42 enabled an application by a person other than a holder of an authority to prospect or permittee to be made to the mining warden at Brisbane for a petroleum lease. The ability of another person to apply does not exist in the *Petroleum and Gas (Production and Safety) Act 2004* but has been replaced

by the ability to have call for tenders for a petroleum lease. Therefore all applications under section 42 are to lapse.

‘Subdivision 2—Authorities to prospect

‘Area of land in area of coal mining lease or oil shale mining lease becomes excluded land

Clause 68, section ‘154 provides for any land in the area of coal mining or oil shale mining lease to become excluded land for the authority to prospect. The definition of this land as excluded land enables the coal seam gas regime to apply in relation to this land. This ensures that potential conflicts in relation to coal mining and coal seam gas extraction can be addressed.

‘Conditions of an authority to prospect about expenditure or work becomes its work program

Clause 68, section ‘155 provides for the current work and expenditure condition as recorded on the instrument for the authority to prospect to become the approved work program for the authority. This will ensure that there is no change to a holder’s commitment during the current term.

‘Subdivision 3—Leases

‘Program for development and production for a lease becomes its development plan

Clause 68, section ‘156 provides for the program for development and production for a lease to become the development plan for the petroleum lease. This will ensure that there is no major disruption to the holder’s current operation. However, the holder of the petroleum lease will be required to submit a new plan within 18 months of the start day if the lease expires five years after the start day. This requirement ensures that the development plan conforms to the new requirements under the *Petroleum Act 1923*. If the area of the lease contains a coal or oil shale mining tenement, then a new development plan must be submitted six months after the start day. This requirement is to ensure that the coal seam gas policy framework will apply to these petroleum leases.

‘Subdivision 4—Conflict between 1923 Act petroleum tenure conditions and relevant environmental conditions

‘Environmental conditions prevail

Clause 68, section ‘157 provides that if on the start day a condition of the 1923 Act petroleum tenure relates to an environmental issue and this condition is in conflict with the relevant environmental condition as provided for in an environmental authority, then the relevant environmental condition prevails. This clause ensures that all environmental compliance issues are addressed under the *Environmental Protection Act 1994*.

‘Subdivision 5—Securities

‘Provision for existing demands for additional or alternative security under former s 43(8)

Clause 68, section ‘158 provides that there has never been any restriction to the amount of security that has been required under the former section 43(8) of the *Petroleum Act 1923*.

‘Monetary securities

Clause 68, section ‘159 provides for the distribution of any security held as money under the *Petroleum Act 1923* for an authority to prospect or petroleum lease. The security provided under the *Petroleum Act 1923* may have two components, one part in relation to the security for activities under the *Petroleum Act 1923* and another part being financial assurance in relation to environmental issues. After the start day, all financial assurance will be provided for under the *Environmental Protection Act 1994*. This clause provides for formula for the split of the all currently held security.

‘Non-monetary security

Clause 68, section ‘160 provides that any security in a non-monetary form (for example a bank guarantee) can be used for the purpose for which it was given. This provision is required as current security has been provided for under the *Petroleum Act 1923* for use under both the *Petroleum Act*

1923 and the *Environmental Protection Act 1994*. This clause allows for the current arrangements to continue until separate security and financial assurance is provided under the respective Acts.

'Subdivision 6—Notices of entry under Petroleum Regulation 1966 relating to 1923 Act petroleum tenure

'Conversion to entry notice

Clause 68, section '161 provides for a notice of entry under the *Petroleum Regulation 1966* to be taken to be a notice of entry under part 6H. This conversion ensures that there is no need for a new notice of entry to be given and that there is no disruption to authorised activities on petroleum tenures.

'Subdivision 7—Compensation

'Accrued compensation rights relating to 1923 Act petroleum tenure

Clause 68, section '162 provides for when the new compensation provisions are to apply. If the liability to compensate arose before the start day then the compensation is to be decided under the provision in the *Petroleum Act 1923* as in force immediately before the 2004 Act start day. This provision ensures that amount of compensation is assessed in accordance with the provisions that existed when the liability occurred.

'Existing compensation agreements relating to 1923 Act petroleum tenure

Clause 68, section '163 provides that if an agreement was in existence before the 2004 Act start day then the agreement is taken to be an agreement under part 6K of the *Petroleum Act 1923*. The agreement is valid whether or not a copy of the agreement had been forwarded to the warden. An agreement can be reviewed by the Land and Resources Tribunal but any reassessment of compensation must be provided for under the former compensation provisions.

‘Subdivision 8—Continuation of former cancellation provision in particular circumstances

‘Continued application of former s 22 for previous acts or omissions

Clause 68, section ‘164 provides for the continuation of any decision to cancel an authority to prospect under the former section 22 to continue to have effect. This provision clarifies the continued operation of section 22 even though section 22 is to be omitted.

‘Subdivision 9—Existing road uses

‘Exclusion of pt 6I, div 1 for continuance of particular existing road uses

Clause 68, section ‘165 allows for the continued use of a road if the haulage use is the same or substantially the same as that being undertaken any time within 12 months before commencement. This ensures that a person who has been undertaking haulage is not disadvantaged by the new provisions.

‘Subdivision 10—Miscellaneous provisions

‘Provision for cancellation of particular conditions of lease 191

Clause 68, section ‘166 cancels conditions 1 to 3 and 5 to 10 of petroleum lease 191.

‘Application of s 3 to particular existing mining tenements

Clause 68, section ‘167 provides for a transitional period of three months to apply before certain requirements of section 3 apply. The section 3 provisions provide obligations and rights for non-coal seam gas regime related tenures with respect to petroleum tenures.

‘Deferral of s 52A for existing leases

Clause 68, section ‘168 provides for a transitional period of 12 months to apply with respect to the obligations of lease holders provided in the coextensive reservoir provisions of the *Petroleum Act 1923*.

Deferral of s 79I for particular 1923 Act petroleum tenure holders

Clause 68, section ‘169 provides for a transitional period of six months before particular public land authority approval provisions apply.

‘Division 2—Relinquishment condition until first renewal after the 2004 Act start day, and related provisions

‘Application of div 2

Clause 68, section ‘170 states that division 2 applies to an authority to prospect in force on the 2004 Act start day. However, the division only applies for the current term as the standard provisions in part 6A, division 2, subdivision 1 will apply if the authority to prospect is renewed at the end of its current term.

‘What is the *current term* of an authority to prospect

Clause 68, section ‘171 provides for a definition of the current term of an authority to prospect. This definition is required as a means of setting, ensuring that no holder is disadvantaged owing to the requirement to comply with other legislation, in particular the *Native Title Act 1993* (Cwlth). Some of the authorities to prospect granted between 1 January 1994 and 23 December 1996 may have had a section 29 notice under the *Native Title Act 1993* (Cwlth) issued for the grant of a new tenure. Therefore, the end of the current term needs to be decided by the Minister otherwise the holder would be required to meet the relinquishment condition by the end of the term. It is inappropriate that the holder complies with this relinquishment condition when the holder is unable to explore on a significant part of the land in their authority to prospect.

‘What are the *transitional notional sub-blocks* of an authority to prospect

Clause 68, section ‘172 defines the transitional notional sub-blocks of an authority to prospect. The notional sub-blocks are those listed on the instrument for the authority to prospect less any sub-block overlapping a lease under the *Petroleum Act 1923* or the 2004 Act. It is inappropriate that an authority to prospect holder could relinquish land from the authority that overlaps with land in a petroleum lease, as the holder could continue to have access to that land under the rights accorded to the petroleum lease. The transitional notional sub-blocks are determined at the start of the current term rather than a grant as there may have already been relinquishments from the authority.

‘Relinquishment condition if authority includes a reduction requirement

Clause 68, section ‘173 requires that if an authority to prospect is to be reduced to a stated number of blocks on or before stated days, then this becomes the relinquishment condition for the authority. The relinquishment is taken to include a requirement that a minimum relinquishment of at least five per cent of the transitional notional sub-blocks be relinquished before the next renewal. This ensures that there is a minimal relinquishment requirement no matter what the relinquishment condition provides. Also the relinquishment of any area that is overlapping with a petroleum lease under the *Petroleum Act 1923* or 2004 Act can not count towards the relinquishment condition.

‘Relinquishment condition if authority does not include a reduction requirement

Clause 68, section ‘174 provides that where an authority to prospect does not include a relinquishment condition then a standard relinquishment of five per cent for each year of the current term is to apply.

‘Division 3—Leases overlapping with an existing or proposed mineral development licence

‘Subdivision 1—Preliminary

‘Definitions for div 3

Clause 68, section ‘175 provides for specific definitions for division 3.

Application of div 3

Clause 68, section ‘176 provides for the application of division 3, if before the 2004 Act start day, a petroleum lease was granted that overlapped with an application or granted mineral development licence. The circumstances when this division no long apply are also specified.

‘Subdivision 2—Additional provisions

‘Obligation of lessee to give access to MDL holder

Clause 68, section ‘177 provides for the MDL holder to be able to carryout authorised activities in the area of a petroleum lease provided the MDL holder has given notice and in carrying out activities the MDL holder does not interfere with the authorised activities of the lease.

‘Additional requirements for later development plans for lease

Clause 68, section ‘178 provides that before lodging a later development plan, the holder of the petroleum lease must give a copy of the proposed plan to the holder of the MDL and use reasonable steps to consult about the proposed plan. A notice outlining the results of consultation must accompany the proposed plan. This requirement ensures that production of petroleum does not interfere with future coal mining.

‘Minister may require further negotiation

Clause 68, section ‘179 enables the Minister, upon receiving the notice outlining the results of consultation, to require further negotiation to be undertaken.

‘Subdivision 3—Confidentiality of information

‘Application of sdiv 3

Clause 68, section ‘180 provides that the subdivision applies where a tenure holder gives another tenure holder information as a result of requirements of this part, subject to any agreement the holders may have.

‘Confidentiality obligations

Clause 68, section ‘181 provides that where a tenure holder gives another tenure holder information as a result of requirements of this part, this information must not be disclosed to anyone else other than the operator of the tenure and can only be used for the purpose for which it was given, unless the consent of the other holder is given. A tenure holder can only use the information for the purposes it was given under this part and may not use the information for commercial gain.

‘Civil remedies

Clause 68, section ‘182 confirms that it is intended that the obligation in the preceding section is a statutory duty and that civil remedies should be sought if the confidentiality obligations are not met.

‘Schedule—Decisions subject to appeal

Clause 68 inserts a schedule that lists the decisions that can be appealed to the Land and Resources Tribunal.

Part 3—Amendment of Petroleum and Gas (Production and Safety) Act 2004

Act amended in pt 3

Clause 69 states that this part of the Petroleum and Other Legislation Amendment Bill 2004 amends the *Petroleum and Gas (Production and Safety) Act 2004*. Uncontroversial corrections and other minor changes of

a drafting nature for the *Petroleum and Gas (Production and Safety) Act 2004* are included in the schedule of Petroleum and Other Legislation Amendment Bill 2004.

Insertion of new s 6A

Clause 70 inserts a new section in the *Petroleum and Gas (Production and Safety) Act 2004*.

'Relationship with Nature Conservation Act 1992

Clause 70, section '6A inserts a new provision that deals with the relationship with *Nature Conservation Act 1992*. Specifically the relationship prohibits the grant of either a petroleum tenure under the *Petroleum Act 1923* or a petroleum authority, other than a survey licence or pipeline licence, under the *Petroleum and Gas (Production and Safety) Act 2004* in relation to a conservation park, forest reserve and certain types of national parks.

Amendment of s 11 (Meaning of *LPG* and *Fuel gas*)

Clause 71 amends the meaning of LPG (liquefied petroleum gas) to remove propylene (also called propene) and that LPG is a substance that has been processed to be suitable for use by consumers.

Amendment of s 16 (What is a *pipeline*)

Clause 72 provides for the transportation of a prescribed storage gas by pipeline.

Amendment of s 20 (What are the *conditions* of a petroleum authority)

Clause 73 states that the conditions of a petroleum authority include any condition of the authority under chapters 2 to 5 of the *Petroleum and Gas (Production and Safety) Act 2004*.

Amendment of s 28 (Property in petroleum produced)

Clause 74 extends the property in petroleum produced to coal seam gas mined under the *Mineral Resources Act 1989*, rather than just incidental coal seam gas.

Amendment of s 48 (General requirements)

Clause 75 clarifies that the regulation may impose requirements about the form of the work program.

Amendment of s 52 (Program period)

Clause 76 clarifies that the proposed work program period must not be longer than the renewed term and that the Minister can not approve a program period that extends beyond the end of the renewed term.

Replacement of s 59 (Restrictions on amending work program)

Clause 77 replaces section 59.

‘Restrictions on amending work program

Clause 77, section ‘59 enables for a one year extension to complete a work program. The ability to apply for a one year extension is restricted to when there has been a change of holder. This extension is intended to provide the new holder with the opportunity to review the basis upon which the work program is being undertaken.

Amendment of s 62 (Deciding application)

Clause 78 states the requirements of which the Minister must be satisfied in order to approve the application to extend the work program period for one year.

Replacement of ch 2, pt 1, div 4, sdiv 2, hdg (Relinquishment condition and related provisions)

Clause 79 replaces the heading of chapter 2, part 1, division 4, subdivision 2 with ‘Subdivision 2 Standard relinquishment condition and related provisions’.

‘Subdivision 2—Standard relinquishment condition and related provisions

Amendment of s 65 (Relinquishment condition)

Clause 80 replaces the heading of the section with ‘Standard relinquishment condition’ and amends the *Petroleum and Gas (Production and Safety) Act 2004* section 65.

‘Standard relinquishment condition

Clause 80 section ‘65 provides that if the period for the completion of the work program has been extended then the relinquishment is due on the day that the extension ends. This extension enables the holder to consider the results of their exploration activities in deciding the area of the authority to prospect to be relinquished.

Insertion of new s 65A

Clause 81 inserts a new section in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Consequence of failure to comply with relinquishment condition

Clause 81, section ‘65A provides for the consequence of failure to comply with the relinquishment condition. This new section specifies that if the holder of the authority to prospect does not comply with the condition before a day specified in a notice, the authority to prospect is cancelled.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause in that it provides for an automatic cancellation of an authority to prospect without a right of appeal if the holder fails to comply with the relinquishment condition. The holder of an authority to prospect must be given a notice stating that the holder of the authority to prospect must comply with the relinquishment condition within 20 business days. Only if the holder does not comply with the relinquishment condition is the authority to prospect cancelled. The holder of the authority to prospect is aware from the day that the authority to prospect is granted of the relinquishment days.

Amendment of s 66 (Part usually required to be relinquished)

Clause 82 provides for days when the relinquishment is to be made.

Amendment of s 67 (Sub-blocks that can not be counted towards relinquishment)

Clause 83 removes the reference to 'area of' from subsection (1)(b) and also provides a meaning for 'penalty relinquishment'.

Amendment of s 68 (Adjustments for sub-blocks that can not be counted)

Clause 84 removes the words 'original notional' from subsection (1).

Amendment of s 69 (Adjustment for particular potential commercial areas)

Clause 85 replaces the words 'other land in the area of the authority is relinquished' with 'remaining sub-blocks of the original notional sub-blocks of the authority are relinquished'. The purpose of this amendment is to describe the area of land to be relinquished in terms of sub-blocks.

Amendment of s 70 (Relinquishment must be by blocks)

Clause 86 removes the words 'within the area of the authority to prospect' from the section.

Amendment of s 73 (Permitted period for production or storage testing)

Clause 87 provides for the testing of each natural underground reservoir for the storage of petroleum or a prescribed storage gas.

Amendment of s 77 (Requirement to have work program)

Clause 88 renumbers and amends the note and inserts two more notes to the section. The notes describe the work program for an authority to prospect and refer to parts of the *Petroleum and Gas (Production and Safety) Act 2004* that relate to the requirements to lodge a proposed later work program, and approval of proposed later work programs.

Insertion of new s 78A

Clause 89 inserts new section 78A.

'Penalty relinquishment if work program not completed within extended period

Clause 89, section '78A provides that if the holder of an authority to prospect has obtained a one year extension to complete the work program and the work program is not completed then the holder must relinquish part of the original notional sub-blocks that corresponds to the amount of the work not completed.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause in that it does not provide for an appeal in relation to the penalty relinquishment. The holder in applying for an extension to complete the work program has already obtained a benefit not available to a tenure holder where there has been no change in holder. Therefore it is appropriate for there to be a penalty relinquishment in proportion of the work not completed in time. An appeal in these circumstances is not warranted.

Amendment of s 79 (Obligation to lodge proposed later work program)

Clause 90 provides for the situation where the holder has lodged a later work program which has been rejected but has not lodged a further proposed later work program before the end of the current program period.

Amendment of s 82 (Requirements for making application)

Clause 91 states that, if a renewal application is made less than 20 business days before expiry of the term of the authority to prospect, the application must be accompanied by an amount that is 10 times the application fee.

Amendment of s 93 (Extension of term of declaration)

Clause 92 provides that the extension of the term of the declaration covers any renewal of the mining lease.

Amendment of s 98 (Area of authority to prospect)

Clause 93 provides that excluded land for another petroleum tenure must not be included in the area of another petroleum tenure.

Amendment of s 99 (Minister's power to decide excluded land)

Clause 94 provides for excluded land to be decided at the grant or renewal of an authority to prospect and upon the approval of a later work program. The restriction to these times provides certainty in relation to when excluded land will be decided.

Amendment of s 110 (Petroleum pipeline and water pipeline construction and operation)

Clause 95 provides that the pipeline may only be operated to transport water for the carrying out of an authorised activity for the petroleum lease, and extends this right to contiguous leases held by the same holder.

Amendment of s 113 (Application of sdiv 2)

Clause 96 inserts a footnote referring to section 52A (Application of 2004 Act provisions about coextensive natural underground reservoirs) of the *Petroleum Act 1923*.

Amendment of s 115 (Restriction on petroleum production from reservoir)

Clause 97 amends the *Petroleum and Gas (Production and Safety) Act 2004* section 115.

'Restrictions on carrying out particular authorised activities

Clause 97, section '115 inserts a simple consent mechanism option in addition to the formal coordination arrangement or tribunal decision requirement. The restriction in this section has been extended to include physical impacts that may adversely impact on adjacent leases, which include adjacent lease applications, to ensure that lease holder activities do not impact off lease unless there is an agreement or an arrangement between the lease holders or there has been resolution of the dispute by the tribunal. The restriction only applies to the effect of physical activities on the lease and is not intended to refer to commercial activities or transactions.

Amendment of s 116 (Dispute resolution by tribunal)

Clause 98 modifies the section in light of the amendments to section 115 and provides for the tribunal to also consider monitoring and remediation requirements given the additional restriction in section 115 in relation to physically adversely impacting on authorised activities on adjacent leases.

Replacement of s 119 (Continuing effect of authority to prospect for ATP-related application)

Clause 99 inserts a new section in the *Petroleum and Gas (Production and Safety) Act 2004*.

'Continuing effect of authority to prospect for ATP-related application

Clause 99, section '119 replaces the existing section and provides for the continuation of an authority to prospect over the area subject to the lease application beyond the ending, other than by cancellation of the authority. The clause also provides that the authority is deemed to have a work program despite the ending of the current work program period. This is to ensure that the authority holder is in compliance with the mandatory condition to have a work program.

Amendment of s 121 (Requirements for grant)

Clause 100 provides that identified reserves of petroleum are required for the grant of the petroleum lease. The intention is to require better definition of the presence of petroleum as a petroleum lease for the production of petroleum. Reserves, rather than resources, are considered to provide certainty. The level of definition of the petroleum reserves and resources is to be prescribed by regulation. The ability to provide for the level of knowledge by regulation will enable the level to be changed as standards and requirements change.

Amendment of s 151 (Restriction on flaring or venting)

Clause 101 removes the reference to incidental coal seam gas as the restriction on flaring and venting is not to apply to this type of gas, primarily for safety reasons.

Amendment of s 152 (Permitted period for production or storage testing)

Clause 102 provides for the testing of each natural underground reservoir for the storage of petroleum or a prescribed storage gas.

Amendment of s 157 (Requirement to have development plan)

Clause 103 renumbers and amends the note and inserts two more notes to the section. The notes describe the development plan for a petroleum lease prospect and refer to parts of the Act that relate to the requirements to lodge a proposed later development plan, and approval of proposed later development plan.

Amendment of s 159 (Obligation to lodge proposed later development plan)

Clause 104 provides that a proposed later development plan must be lodged as soon as reasonably practicable after the petroleum lease holder becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the current development plan. The requirement to lodge a later development plan ensures that the plan always reflects the authorised activities being undertaken.

Amendment of s 162 (Requirements for making renewal application)

Clause 105 states that, if a renewal application is made less than 40 business days before expiry of the term of the petroleum lease, the application must be accompanied by an amount that is 10 times the application fee.

Amendment of s 169 (Minister's power to decide excluded land)

Clause 106 provides for excluded land to be decided at the grant or renewal of a petroleum lease and upon the approval of a later development plan. The restriction to these times provides certainty in relation to when excluded land will be decided.

Amendment of s 173 (Deciding application)

Clause 107 provides that the applicant has established certain matters required for the grant of both proposed leases.

Amendment of s 178 (Deciding application for data acquisition authority)

Clause 108 provides that a condition of the data acquisition authority can not be inconsistent with the key authorised activities, a condition imposed on the data acquisition authority, or the annual rent for the authority.

Insertion of new s 184A

Clause 109 inserts a new section in the *Petroleum and Gas (Production and Safety) Act 2004*.

'Annual rent

Clause 109, section '184A provides that the rent for a data acquisition authority, the way, and when the rent is payable are prescribed in a regulation.

Amendment of s 187 (Water monitoring activities)

Clause 110 provides that a water monitoring authority activity conducted under a petroleum tenure is an activity authorised under this section.

Amendment of s 190 (Who may apply for water monitoring authority)

Clause 111 identifies where a petroleum tenure holder may apply for a water monitoring authority. A water monitoring authority may relate to authorised activities in more than one petroleum tenure provided those tenures are held by the same person. The application may be made or granted over land in the area of another petroleum authority.

Amendment of s 192 (Deciding application for water monitoring authority)

Clause 112 provides that a condition of the water monitoring authority can not be inconsistent with a condition imposed on the water monitoring authority or the annual rent for the authority.

Replacement of s 201 (Provision for who is the authority holder if only 1 related petroleum tenure)

Clause 113 provides for the replacement of section 201 in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Provision for who is the authority holder

Clause 113, section ‘201 provides for who is the water monitoring authority holder. The clause states that if the authority relates to one petroleum tenure, then the petroleum tenure authority holder is taken to be the water monitoring authority holder. If a water monitoring authority relates to more than one petroleum tenure, then the petroleum tenures must be held by the same holder. If one of the petroleum tenure is transferred to a different holder, then the water monitoring authority remains with the original holder and the holder for the transferred tenure will be required to apply for a separate water monitoring authority.

Insertion of new s 202A

Clause 114 inserts a new section in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Annual rent

Clause 114, section ‘202A provides that the rent is payable for a water monitoring authority and provides the way, and when the rent is payable are prescribed in a regulation.

Amendment of s 228 (Prohibition on actions preventing access)

Clause 115 inserts a maximum penalty of 1000 penalty units.

Amendment of s 234 (Arrangement to coordinate petroleum activities)

Clause 116 extends the application of the section to include interests as well as subleasing.

Amendment of s 235 (Applying for Ministerial approval of proposed coordination arrangement)

Clause 117 provides that the application must be accompanied by the original or certified copy of the proposed arrangement and the application fee.

Amendment of s 240 (Grant of pipeline licence)

Clause 118 provides a pipeline licence can also be granted for the purpose of transporting a prescribed storage gas.

Amendment of s 250 (The make good obligation)

Clause 119 provides that the make good obligation does not apply if the petroleum tenure has ended or the area of the tenure where authorised activities have been undertaken that resulted in bores becoming unduly affected is no longer part of the tenure. This provision ensures that there once a tenure ends that there is no longer the obligation. This provision means that tenures that have already ended by the 2004 Act start day are not subject to the make good provisions.

Amendment of s 266 (Obligation to lodge monitoring reports)

Clause 120 renumbers a subsection.

Replacement of s 281 (Standard for drilling petroleum well)

Clause 121 replaces section 281.

‘Requirements for drilling petroleum well

Clause 121, section ‘281 provides for the requirements for the drilling of a petroleum well. These requirements can be provided for by regulation including any provisions to prevent adversely affecting the future safe and efficient mining of coal under the *Mineral Resources Act 1989*. The adoption of these requirements should result in the efficient exploitation of both the petroleum and coal resources.

Amendment of s 292 (Obligation to decommission)

Clause 122 provides for a petroleum well to be decommissioned by complying with the requirements provided by regulation whereas water

observation bore or water supply bore must meet the requirements of the *Water Act 2000*.

Amendment of s 295 (Main purposes of ch 3)

Clause 123 amends the provision to refer to those parts of other relevant Acts, which together form the coal seam gas regime. The purposes of chapter 3 rely on the effect of, and interrelationships with, those parts to be effective.

Amendment of s 297 (Relationship with chs 2, 5 and 15)

Clause 124 provides clarification in regards to the *Petroleum and Gas (Production and Safety) Act 2004* chapter 3 relationships with other chapters in the Act.

Amendment of s 298 (Description of petroleum leases for ch 3)

Clause 125 provides for chapter 15, part 3 could also apply.

Amendment of s 305 (Additional requirements for making application)

Clause 126 removes a requirement that can not be fulfilled until after the application is made.

Amendment of s 313 (Obligations of coal or oil shale exploration tenement holder)

Clause 127 provides for additional sections to be inserted which the coal or oil shale exploration tenement holder must comply with.

Amendment of s 318 (When preference decision is required)

Clause 128 provides for a regulation to be made to define the level of knowledge that is required to be known about the resources or reserves identified in the area of the application. The intention is that the level of definition of the resources and reserves required before a preference decision can be made will be defined by regulation. It is intended that this be a high level to ensure that the comprehensive preference decision process is only required where a substantive resource on resource management decision needs to be made.

Amendment of s 321 (Restrictions on giving preference)

Clause 129 clarifies the wording of this section. The intention is that a preference decision can only be made if the Minister is satisfied with respect to the listed provisions in this section.

Amendment of s 328 (Additional criteria for deciding provisions of petroleum lease)

Clause 130 extends section 328 to include the affect on any future coal mining in adjacent coal or oil shale exploration tenement.

Amendment of s 341 (Provisions of petroleum lease)

Clause 131 extends the application of the section to authorities to prospect under the *Petroleum Act 1923*.

Amendment of s 350 (Additional requirement for grant)

Clause 132 provides clarification that the reference is to the safety management plan.

Amendment of s 356 (Right to grant if particular requirements met)

Clause 133 changes the reference from an exploration tenement to a mining lease.

Amendment of s 360 (Restriction)

Clause 134 provides that the mining lease holder must also agree to the safety management plan before the authorised activity for the authority to prospect can be carried out.

Replacement of ch 3, pt 4, div 3 (Exception to automatic area reduction of authority to prospect on grant of petroleum lease)

Clause 135 omits division 3 and inserts a new division.

‘Division 3—Exceptions to particular area provisions

‘Exceptions

Clause 135, section ‘361 ensures the section achieves its intended purpose by adding reference to section 98(4) of the *Petroleum and Gas (Production and Safety) Act 2004*. The area provisions for authorities to prospect (section 98(4)) can not apply in these cases, because a petroleum lease granted to the coal miner, may overlie an authority to prospect held by another party, or is excluded land for an authority to prospect held by another party. In these cases, the area of the authority to prospect should not be automatically reduced.

Amendment of s 364 (Restriction on authorised activities on overlapping ATP land)

Clause 136 has been amended to add additional provisions originally omitted by oversight. The intention is that the right of a coal miner to commercialise their incidental coal seam gas under a petroleum lease be defined more clearly, and in most cases is unlikely to apply to the whole area of the mining lease at any point in time. The coal miner who holds a petroleum lease in this case will only be able to undertake authorised activities (for the petroleum lease) within a defined area. The defined area is described as the mine working envelope and includes all current and past mine workings and the land proposed to be mined in the next five years. It also includes land covering post-production activities such as processing, transportation, storage and use of the incidental coal seam gas produced. By defining such an area, the rights of the coal miner are more clearly defined, allowing for a clearer basis for negotiation about any consent to increased rights under the petroleum leases that might be provided by the authority to prospect holder under this section. Note: the annual reporting requirements for mining leases require the mining lease holder to define this area in their annual report. The area therefore will change over time as activities move over the lease.

Amendment of s 367 (Requirement for giving copy of relinquishment report)

Clause 137 provides for a change in penalty from 200 to 150 penalty units.

Amendment of s 376 (Deciding amendment application)

Clause 138 provides for a notice of the decision to be given.

Replacement of ch 3, pt 6, div 1, hdg

Clause 139 provides for a change in division heading.

'Division 1—Initial development plans

'Subdivision 1—Additional requirements for proposed initial development plan

Amendment of s 380 (Operation of div 1)

Clause 140 provides for correction to the references to the relevant parts of the *Petroleum and Gas (Production and Safety) Act 2004*.

Amendment of s 381 (Statement about interests of coal or oil shale exploration tenement holder)

Clause 141 modifies the section so that it applies to both exploration tenements and mining leases. The section has also been modified to include reference to all the CSG assessment criteria including the safety requirements.

Amendment of s 382 (Requirement to optimise petroleum production)

Clause 142 has been modified to reflect the removal of 'a mineable coal seam' concept that was originally planned for the regulations. The requirement under this section now applies to coal seams generally, but as it relates to impacts on the future mining of the coal, the intent is that it would only apply to coal seams for which mining might reasonably be contemplated in the long term.

Insertion of new ch 3, pt 6, div 1, sdiv 2

Clause 143 provides for the insertion of chapter 3, part 6, division 1, subdivision 2.

‘Subdivision 2—Other additional provisions

‘Application of sdiv 2

Clause 143, section ‘383A provides for the circumstances when this subdivision will apply.

‘Additional criteria for approval

Clause 143, section ‘383B requires that the CSG assessment criteria must also be considered.

‘Restriction on approval

Clause 143, section ‘383C restricts the approval of the proposed initial development plan unless the obligations have been met. Failure to consult may mean that the plan may not be acceptable to the coal or oil shale exploration tenement holder.

Replacement of ch 3, pt 6, div 2, hdg

Clause 144 inserts a new heading for chapter 3, part 6, division 2 heading.

‘Division 2—Later development plans

‘Subdivision 1—Additional requirements for proposed later development plans

‘Additional requirements under div 1, sdiv 1 apply

Clause 144, section ‘383D requires that the initial development plan must comply with additional requirements in other sections of the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Subdivision 2—Other additional provisions

‘Replacement of s 386 (Consultation with particular coal mining tenement holders required before making plan)

Clause 145 provides for the replacement of section 386 in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Requirements for consultation with particular coal mining tenement holders

Clause 145, section ‘386 provides for substantive changes to this section to reflect the removal of ‘a mineable coal seam’ concept planned for the regulations and to provide for a timely process for the required consultation. The mining tenement holder has 30 business days to make proposals to the operator. The provisions allow for the tenure holder to coordinate this consultation where there are multiple operators of operating plant on the tenure. The timing of the consultation requirement has also been changed, so that it must be undertaken before the operating plant can be operated. This is a fairer and more practical approach than previously provided. In addition, rather than a copy of the plan being provided to the chief inspector, only advice of the changes is required.

Amendment of s 388 (Additional content requirements)

Clause 146 has been modified to reflect the removal of the ‘mineable coal seam’ concept that was originally planned for the regulations. In line with the regulatory requirements, the additional content requirements only apply to coal seams that have been completed for production or are being tested for production. It is not intended that the requirements apply to coal seams, which are merely drilled through. For these seams the standard well abandonment, survey and reporting requirements will ensure there are no adverse impacts.

Amendment of s 389 (Exemption from additional content requirements)

Clause 147 makes changes to provide the power to the chief inspector to grant exemptions to these additional safety management plan content requirements rather than the Minister, as the chief inspector is the appropriate decision maker. Provisions have been added for the chief

inspector to seek advice from a technical advisory committee in making such a decision. The exemption requirement is fundamental to the integrity of the coal seam gas regime and the proposed regulations, to ensure that the coal seam gas regime requirements are not unnecessarily applied to all petroleum tenure holders. There may be many situations where the potential impacts of the petroleum activities would create no unacceptable risk to future coal mining or where mining in the long term is unlikely to occur. Such exemptions will need to be considered on a case-by-case basis and can not be legislated for.

Amendment of s 391 (Confidentiality obligations)

Clause 148 extends the right to disclose information to the operators of lease, as many tenure holders have a different company actually operating the mining lease.

Amendment of s 396 (Deciding application)

Clause 149 restricts the deciding of an application unless the applicant is an eligible person and the relevant environmental authority has been issued. This ensures that all the necessary approvals have been obtained before the survey licence is issued.

Amendment of s 399 (What is *pipeline land* for a pipeline licence)

Clause 150 provides that the owner's written permission to enter land is for the construction or operation of the pipeline.

Amendment of s 401 (Construction and operation of pipeline)

Clause 151 corrects a cross referencing error and provides that the pipeline licence holder must have or hold an interest or permission to enter land subject to native title to exercise right under a pipeline licence or petroleum facility licence.

Amendment of s 408 (Notice of proposed application to relevant local government)

Clause 152 clarifies that the requirement to give a notice to each relevant local authority does not apply to existing pipelines.

Amendment of s 409 (Requirements for making application)

Clause 153 clarifies that the application requirements for a pipeline licence does not apply to existing pipelines.

Amendment of s 411 (Public notice requirement)

Clause 154 provides for a public notice to be published in a newspaper circulating throughout the State or in the general area of the pipeline licence. This requirement will ensure that the widest possible notification of the proposed pipeline licence will be made.

Amendment of s 441 (Construction and operation of petroleum facility)

Clause 155 provides that the petroleum facility licence holder must have or hold an interest or permission to enter land subject to native title.

Amendment of s 443 (Who may apply)

Clause 156 provides for the ability to apply for a petroleum facility licence for a facility that is part of a pipeline.

Amendment of s 445 (Requirements for making application)

Clause 157 provides that possible impacts on mining under a mining interest in the area of the pipeline licence application must be identified in the licence application.

Amendment of s 447 (Provisions of licence)

Clause 158 omits the subsection as it is a repeat of an earlier one.

Amendment of s 448 (Criteria for decisions)

Clause 159 provides for the impacts on mining activities to be considered.

Insertion of new s 448A

Clause 160 provides for the insertion of new section 448A.

‘Provision for facility already the subject of a pipeline licence

Clause 160 section ‘448A provides that if an application for a petroleum facility licence is granted, then upon the grant of the petroleum facility licence the facility is no longer licensed under the pipeline licence.

Amendment of s 456 (State’s power to take land)

Clause 161 clarifies that if the land is held under the *Land Act 1994* or other Act then this provision does not limit the power under the other Act to forfeit or take land or the interest under which it is held.

Insertion of new s 478A

Clause 162 inserts new section ‘478A.

‘Survey licence can not be renewed

Clause 162, section ‘478A states that a survey licence can not be renewed. The intention is that an application for a new survey licence may be made.

Amendment of s 479 (Conditions for renewal application)

Clause 163 amends the section heading to include other types of licence.

Amendment of s 480 (Requirements for making application)

Clause 164 states that, if a renewal application is made less than 20 business days before expiry of the term of the licence, the application must be accompanied by an amount that is 10 times the application fee.

Amendment of s 487 (Operation and purpose of pt 1)

Clause 165 clarifies that an annual licence fee is payable for pipeline licences and petroleum facility licences.

Amendment of s 488 (Power to require security for petroleum authority)

Clause 166 provides for appeal only where the security required is greater than the prescribed minimum.

Amendment of s 489 (Minister's power to require additional security)

Clause 167 provides that the Minister must give the holder an information notice only when the increase to the security makes the total security greater than the prescribed minimum. Only a notice is required to be given if the amount of security is the same as that prescribed under Regulation.

Amendment of s 493 (Security not affected by change in authority holder)

Clause 168 provides that where security in the form of money is provided in respect of a petroleum authority, until the security is replaced or refunded, it continues for the authority until it is replaced or refunded.

Amendment of s 497 (Requirement for entry notice to carry out authorised activities)

Clause 169 amends and inserts a maximum penalty of 500 penalty units and also inserts a note concerning preconditions for entry to private land.

Insertion of new ch 5, pt 2, div 2A

Clause 170 inserts a new chapter 5, part 2, division 2A.

'Division 2A—Requirement for further notice before carrying out authorised activities on private land

'Application of div 2A

Clause 170, section '500A states that this division applies when authorised activities are to first commence on the land. This notice is intended to supplement the entry notice provision as the entry notice could be given many months before the activities actually commence.

'Requirement to give further notice

Clause 170, section '500B provides for a later notice to be given at least two business days before the commencement of authorised activities on the land. A shorter period may be agreed for the giving of the notice. The notice can be given in any form.

‘Failure to give further notice

Clause 170, section ‘500C provides a penalty if the holder of the petroleum authority does not give the later notice. Failure to give a notice does not prevent the holder from carrying out authorised activities.

Amendment of s 511 (Entry notice or waiver of entry notice or access agreement not affected by dealing)

Clause 171 provides that the effect of an entry notice or access agreement is not waived by a permitted dealing. A permitted dealing may result in a change in holder and the new holder is considered to have complied with the requirement to give a notice of entry.

Amendment of s 512 (Change in ownership or occupancy)

Clause 172 provides clarification in respect to ownership or occupancy of the land in respect to the giving an entry notice.

Insertion of new ch 5, pt 2, div 6

Clause 173 provides for the insertion of chapter 5, part 2, division 6.

‘Division 6—Access to carry out rehabilitation and environmental management

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

Clause 173, section ‘513A provides that the holder of a petroleum authority has the right to enter private land to conduct authorised activities. The holder also has the right to enter land for the purpose of conducting rehabilitation and environmental management related to the authorised activities. This ensures that the holder does not require the rights to enter as obligations in relation to rehabilitation and environmental management provided for under the *Environmental Protection Act 1994*. This right only applies during the currency of a petroleum authority.

Amendment of s 526 (Public land authority approval required for particular activities)

Clause 174 amends the *Petroleum and Gas (Production and Safety) Act 2004* section 526 by changing the heading of the clause and amending the section.

'Requirement for entry notice to carry out authorised activities

Clauee 174, section '526 amends the section to provide for an entry notice to be given to the public land authority before carrying out authorised activities for the petroleum authority. The entry notice does not have to be given if the public can carryout an activity that does not require approval of the public land authority. The requirement that the petroleum authority holder gives at least 30 business days is to ensure that the public land authority has adequate time to consider the conditions that the public land authority can impose under other sections of this Bill. There is no restriction on entry if the entry is required to preserve life or property in relation to an emergency. This provision does not apply to the notifiable road use as there are specific provisions in the legislation that deals with this issue.

Insertion of new ss 526A and 526B

Clause 175 inserts new sections 526A and 526B into the *Petroleum and Gas (Production and Safety) Act 2004*.

'Waiver of entry notice

Clause 175, section '526A enables the public land authority to waiver the requirement for an entry notice to be given each time that there is an entry onto public land. This waiver is required to be in writing and state the authorised activities to be undertaken. The period of the waiver is also to be stated. The ability to waiver the requirement for an entry notice is intended to provide for an arrangement suitable to all parties.

'Required contents of entry notice

Clause 175 section '526B outlines the required contents of an entry notice. Each of the following must be stated in an entry notice:

- the land proposed to be entered (generally described as lot-on-plan);

- the period of entry on the land (called the entry period);
- the proposed authorised activities on the land stated in this entry notice;
- whee (specifically on the land previously described) and when (specific periods within the previously identified entry period) the authorised activities are proposed to be carried out; and
- the contact details of the holder of the petroleum authority, or the contact details of a person authorised to discuss the matters stated in the entry notice.

The entry period can not be longer than six months where the entry notice is for an authority to prospect or 12 months for a petroleum lease, unless the public land authority agrees in writing to a longer period.

Where an authorised activity proposed by a peteroleum authority holder is unlikely to significantly disrupt the day-to-day activities the public land authority normally carries out on the land, the notice of entry requirements about proposed authorised activities (and where and when the authorised activities are proposed to be carried out) may be complied with by generally describing the nature and extent of the activities.

Amendment of s 527 (conditions of public land authority approval)

Clause 176 amends the *Petroleum and Gas (Production and Safety) Act 2004* section 527 by changing the heading and amending relevant subsections.

‘Conditions public land authority may impose

Clause 176, section ‘527 enables the public land authority to impose relevant and reasonable conditions in relation to entry onto public land. The conditions imposed by the public land authority approval can not be the same or substantially the same as, or inconsistent with, a condition of the petroleum tenure or the relevant environmental authority for the petroleum tenure. If the public land authority is chief executive of the department administering the *Nature Conservation Act 1992,* then the chief executive can impose more strigent conditions in order to protect the relevant environmental values of the land. This clause also provides for the public land authority to give an information notice to the petroleum tenure holder, if the public land authority sets a condition in the public land authority

approval that has not been agreed to or requested by the petroleum tenure holder.

Amendment of s 527 (Conditions of public land authority approval)

Clause 176 inserts a maximum penalty of 100 penalty units.

Amendment of s 531 (General liability to compensate)

Clause 177 exempts a make good agreement or decision made under the relevant make good provisions in the *Petroleum and Gas (Production and Safety) Act 2004* from the liability to compensate under this amended section.

Amendment of s 532 (Compensation agreement)

Clause 178 enables the compensation agreement of cover compensation that would be payable under the *Environmental Protection Act 1994*.

Amendment of s 533 (Deciding compensation through tribunal)

Clause 179 enables the Land and Resources Tribunal to assess compensation that may be payable under the *Environmental Protection Act 1994*.

Amendment of s 536 (Compensation to be addressed before entry to private land)

Clause 180 changes the restriction that a holder of a petroleum authority could not enter private land to must not enter land to carryout authorised activities unless compensation was addressed. Common law provision will apply in respect to all other entry.

Amendment of s 539 (General provision about ownership while tenure or licence is in force for pipeline)

Clause 181 provides for the omission of subsection (2) and the consequential renumbering of the other subsections.

Amendment of s 544 (Notice by petroleum tenure holder about discovery and commercial viability)

Clause 182 requires the holder of a petroleum tenure to give a notice only if coal seam gas is produced.

Amendment of s 546 (End of tenure report)

Clause 183 provides for additional information to be given especially in respect to significant hazards that may affect the safe mining of coal or oil shale.

Amendment of s 548 (Requirement to lodge records and samples)

Clause 184 provides for the State to be able to incorporate reports into a database for the services of the State.

Amendment of s 550 (Public release of required information)

Clause 185 provides that there is an authorisation from the holder of a petroleum tenure for the chief executive to publish and release tenure information after the confidentiality period has ended.

Amendment of s 551 (Chief executive may use required information)

Clause 186 authorises the chief executive to use tenure information during and after the tenure period for reasons related to the Act and for services of the State.

Amendment of s 553 (Power to require information or reports about authorised activities to be kept or given)

Clause 187 provides that if the chief executive requires the petroleum authority holder keep information in a particular way and therefore there is no requirement for the way to be described under a regulation.

Amendment of s 559 (Obligation to decommission pipelines)

Clause 188 provides for an increase in the maximum penalty for failing to decommission a pipeline to 2000 penalty units.

Amendment of s 560 (Obligation to remove equipment and improvements)

Clause 189 amends the maximum penalty to be 1000 penalty units.

Amendment of s 569 (Prohibited dealings)

Clause 190 limits the transfer of a water monitoring authority. This limitation is to ensure that a water monitoring authority is linked to a specified tenure.

Amendment of s 571 (Minister may give indication for proposed permitted dealing)

Clause 191 provides that the Minister must consider the criteria stated in section 574(2) in deciding whether to give the indication for a proposed permitted dealing.

Amendment of s 573 (Deciding application)

Clause 192 restricts the approval of a dealing, in particular a transfer, until the proposed transferee is the holder of a relevant environmental authority and the required financial assurance has been given for the environmental authority. The clause also permits the Minister to require the proposed transferee to give required security for the petroleum authority.

Insertion of new s 574A

Clause 193 inserts a new section in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Authority to prospect can not be surrendered

Clause 193, section ‘574A clarifies that an authority to prospect can not be surrendered. If an authority to prospect is to be reduced in area, in part or whole, relinquishment provisions are to apply.

Amendment of s 575 (Requirements for surrenders)

Clause 194 clarifies that the amended section does not apply to an authority to prospect.

Amendment of s 577 (Notice of application required for particular pipeline licences)

Clause 195 provides for an increase in the maximum penalty to 500 penalty units.

Amendment of s 586 (Recovery of costs of and compensation for exercise of remedial power)

Clause 196 provides that the proceeds of sale should only be applied if they result from the sale of something that was owned by the responsible person immediately before it was removed.

Amendment of s 590 (Imposition of petroleum royalty on petroleum producers)

Clause 197 provides that the amended section is also subject to any exception under the inserted section of this Bill that specifies the exemptions for production testing.

Amendment of s 591 (Exemptions from petroleum royalty)

Clause 198 provides that amount of petroleum used to produce petroleum must be worked out on a net basis. The amendment also provides for petroleum produced as a result of testing for petroleum also to be exempt from royalty. This petroleum is produced as a result of a drill stem test of an interval in a well. This does provide for any exemption in relation to petroleum produced as part of production testing as provided for in a separated section to be inserted by this Bill. The exemption is to apply as the quantity of petroleum involved is very small.

Insertion of new s 591A

Clause 199 inserts a new section in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Exemption for production testing

Clause 199, section ‘591A specifies the amount of petroleum that can be produced or the period of time that can elapse during which royalty is not payable. Royalty becomes payable when either of these limits is exceeded. The quantity and time limits are considered to be adequate to determine the capability of a well to produce petroleum.

Amendment of s 592 (Minister may decide measurement if not made or royalty information not given)

Clause 200 provides an additional subsection that clarifies that even if the Minister decides a measurement or information about a royalty return then any relevant person will continue to be obliged under this Act to make the measurement of petroleum produced or give or lodge the information.

Amendment of s 597 (Petroleum producer's obligations if use of estimates approved)

Clause 201 provides for a decrease in the maximum penalty to 500 penalty units.

Amendment of s 599 (Annual royalty returns)

Clause 202 provides that at the commencement of this Bill, if a producer has property in petroleum for which royalty is or could be payable then the producer must lodge a royalty return on 30 June or 31 December to first happen after the commencement. Later royalty returns are required to be lodged annually for subsequent periods of 12 months following the first return period as provided for in other subsections.

Amendment of s 605 (Appointment and qualifications)

Clause 203 specifies that an appointment can only be for six months, but may be renewed for no more than six months.

Amendment of s 612 (Return of identity card)

Clause 204 amends and inserts a maximum penalty of 50 penalty units.

Amendment of s 648 (Restrictions on use of meter)

Clause 205 amends and inserts a maximum penalty of 300 penalty units.

Amendment of s 675 (Content requirements for safety management plans)

Clause 206 adds a requirement for the plan to consider the relationships, interactions and responsibilities of other operating plant and contractors working in the same vicinity. This is particularly important in the overlapping tenure situations envisaged under the coal seam gas regime

where parties may have obligations under different acts. An additional requirement for plans has been included requiring a description of the plant and its operations and plan and policies for the operator to review and audit the plan.

Amendment of s 687 (Who is the *executive safety manager* of an operating plant)

Clause 207 clarifies who is the executive safety manager of an operating plant.

Amendment of s 688 (Executive safety manager's general obligations)

Clause 208 clarifies the keeping of safety records at the operating plant.

Amendment of s 690 (Content requirements for safety reports)

Clause 209 provides for an additional requirement to report any hazards or potential hazards created by the operating plant to the future safe and efficient mining of coal. This is framed in the widest context and is not limited to an overlap tenure situation but would include an impact on an adjacent lease.

Amendment of s 691 (Obligation to give information to coal or oil shale exploration tenement holder)

Clause 210 requires the hazard information to be provided to the relevant coal or oil shale exploration tenement holder.

Amendment of s 699 (General obligation to keep risk to an acceptable level)

Clause 211 implements a minor grammatical change to aid clarity.

Insertion of new s 699A

Clause 212 inserts a new section in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Operator’s obligation for adjacent or overlapping coal mining operations

Clause 212, section ‘699A inserts an obligation that operating plant must not be operated if the plant is creating an unacceptable level of risk to a person or property on adjacent or overlapping coal mining operations.

Replacement of ch 9, pt 4, div 5 (Hazard reporting for operating plant on coal or oil shale mining lease)

Clause 213 renames the division to reflect the changes to section ‘705 and inserts revised and additional sections with respect to principal hazard management plans and reporting requirements.

‘Division 5—Additional obligations of operator of operating plant on coal or oil shale mining lease

‘Subdivision 1—Principal hazard management plans

‘Application of sdiv 1

Clause 213, section ‘705 now outlines where subdivision 1 applies.

‘Requirement to have principal hazard management plan

Clause 213, section ‘705A obligates the operator of an operating plant to develop a principle hazard management plan. This must be done in consultation with the relevant mining tenement holder and include reasonable provisions of the tenement holder.

‘Content requirements for principal hazard management plan

Clause 213, section ‘705B provides for the content requirements for the plans. It is intended that the plans consider what triggers are relevant, what factors and changes in those factors should be monitored and what the appropriate response and reporting procedures would be. The necessary actions, which are dependant on the severity of the change or impact, should be identified and may include risk assessment, further monitoring and remediation action.

‘Resolving disputes about provision proposed by mining lease holder

Clause 213, section ‘705C provides a mechanism for the chief inspector to resolve a dispute in relation to the reasonableness of a provision proposed by a mining lease holder for the operator’s proposed principal hazard management plan for the operating plant. The referral of the dispute to the chief inspector provides a simple mechanism to resolve the dispute.

‘Subdivision 2—Additional reporting requirement

‘Reporting of particular accidents and prescribed high potential incidents

Clause 213, section ‘705D requires prescribed and high potential incidents relating to the safety of coal mining to be reported in accordance with the requirements of the *Coal Mining Safety and Health Act 1999.*

Amendment of s 724 (Types of gas device)

Clause 214 provides that gas devices include those used for medical purposes with the industrial use of oxygen, hydrogen or other gases. The incorporation of these devices ensures that the installation of all gas devices is undertaken by an authorised person.

Replacement of s 728 (Chief inspector’s power to issue)

Clause 215 has been reworked to include the necessary process for applying and deciding applications for gas licences and authorisations.

‘Subdivision 1—Applying for and obtaining gas work licence or authorisation

‘Who may apply

Clause 215, section ‘728 now outlines what type of licence is being applied for.

'Requirements for application

Clause 215, section '728A outlines the requirements for making and lodging the application.

'Interim licence or authorisation

Clause 215, section '728B provides for interim licences to be issued in limited circumstances pending the applicant demonstrating their skills and competencies. It is intended that an interim authority can be granted for one year plus an extension of a period of no more than one year. Further extensions of no more than one year can only be provided in exceptional circumstances. If a further extension is not sought or the demonstration of skills and competency is not provided, the authority lapses and the application must be refused.

'Deciding application

Clause 215, section '728C provides for deciding the application. The application can not be granted if the applicant does not have the prescribed qualifications or experience or if they are not a suitable person to hold the licence. The criteria used to consider whether someone is suitable are given.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause in that it is very subjective in the definition of a suitable person. The reason for not defining further the term "suitable" is because the criteria would depend on the particular licence or authorisation issued. For example, a gas licence holder who would have open access to domestic premises may be considered not to be fit and proper if convicted of violent offences. In industrial situations, the security of infrastructure may give rise to the need to scrutinise the background of potential applicants. The licence can be limited or conditioned and the chief inspectors decision is appealable.

'Term of gas work licence or authorisation

Clause 215, section '728D provides for a term stated on the licence or authorisation.

‘Subdivision 2—General provisions for gas work licences and authorisations

Insertion of new ss 732A and 732B

Clause 216 inserts two new sections in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Defences for certain offences

Clause 216, section ‘732A provides for the overriding of the Criminal Code sections 23(1) and 24 for particular safety offences. This is a similar provision to that provided in the *Coal Mining Safety and Health Act 1999*. Possible defences for certain offences are given especially in circumstances where the person charged with an offence was complying with regulations or standard. Under these circumstances it would be in appropriate for a defence on this basis not to be admissible.

‘Technical advisory committees

Clause 216, section ‘732B provides for the establishment of technical advisory committees. It is intended that the chief inspector can set up such committees to consider technical matters relating to safety, quality and measurement issues, particularly with respect to regulations, standards and safety requirements. It is intended that the committee can provide advice to the chief inspector to allow for improved safety and technical outcomes.

Amendment of s 733 (Certification of gas device or gas fitting)

Clause 217 provides that chief inspector can cancel or suspend the approval of a gas device made by an approved person or body.

Amendment of s 742 (Return of identity card)

Clause 218 increases the maximum penalty for the failure to return an identity card to 50 penalty units.

Replacement of s 745 (Inspector’s additional entry power for operating plant)

Clause 219 clarifies the wording of the section.

‘Inspector’s additional entry power for operating plant

Clause 219, section ‘745 intends that an inspector can enter the place where the operating plant is situated or the plant itself if that is practical.

Amendment of s 756 (Failure to comply with help requirement)

Clause 220 increases the maximum penalty for the failure to comply with a help requirement card to 500 penalty units.

Amendment of s 759 (Failure to produce document)

Clause 221 increases the maximum penalty for the failure to produce a document to 500 penalty units.

Amendment of s 760 (Failure to certify copy of document)

Clause 222 increases the maximum penalty for the failure to certify a copy of a document to 500 penalty units.

Amendment of s 762 (Failure to comply with information requirement)

Clause 223 increases the maximum penalty for the failure to comply with information requirement to 500 penalty units.

Amendment of s 766 (Failure to comply with seizure direction)

Clause 224 increases the maximum penalty for the failure to comply with seizure direction to 500 penalty units.

Amendment of s 768 (Offence to unlawfully interfere with seized thing)

Clause 225 increases the maximum penalty for the unlawful interference with a seized thing to 500 penalty units.

Amendment of s 782 (Failure to comply with compliance direction)

Clause 226 increases the maximum penalty for the failure to comply with a compliance direction to 500 penalty units.

Amendment of s 785 (Failure to comply with dangerous situation direction)

Clause 227 increases the maximum penalty for the failure to comply with a dangerous situation direction to 1000 penalty units.

Amendment of s 790 (Types of noncompliance action that may be taken)

Clause 228 provides minor amendments to the type of non-compliance action that can be taken. Some subsections have been omitted as the noncompliance action in respect of failure to comply with the relinquishment conditions is now provided for in the amendments to *Petroleum and Gas (Production and Safety) Act 2004*.

Amendment of s 791 (When noncompliance action may be taken)

Clause 229 provides for additional circumstances when noncompliance action may be taken.

Amendment of s 798 (Decision on proposed noncompliance action)

Clause 230 provides consequential amendments following the inclusion of noncompliance action in respect of failure to comply with the relinquishment conditions being provided for in the amendments to *Petroleum and Gas (Production and Safety) Act 2004*.

Insertion of new s 799A

Clause 231 inserts a new section in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Consequence of failure to comply with relinquishment requirement

Clause 231, section ‘799A provides for the consequence of failure to comply with the relinquishment requirement. This new section specifies that if the holder of the authority to prospect does not comply with the relinquishment before a day specified in a notice, the authority to prospect is cancelled.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause in that it provides for an automatic cancellation of an authority to prospect without a right of appeal if the holder fails to comply with the relinquishment condition. The holder of an authority to prospect must be given a notice stating that the holder of the authority to prospect must comply with the relinquishment condition within 20 business days. Only if the holder does not comply with the relinquishment condition is the authority to prospect cancelled. The cancellation does not take effect until another notice is given. The holder of the authority to prospect is aware from the day that the authority to prospect is granted of its relinquishment days.

Amendment of s 800 (Restriction on petroleum tenure activities)

Clause 232 specifies that carrying out an authorised petroleum tenure activity under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004* is not an offence under this section.

Amendment of s 804 (Duty to avoid interference in carrying out authorised activities)

Clause 233 amends the section to remove unnecessary words.

Amendment of s 805 (Obstruction of petroleum authority holder)

Clause 234 increases the maximum penalty for the obstruction of a petroleum authority holder to 500 penalty units.

Amendment of s 807 (Restriction on building on pipeline land)

Clause 235 increases the maximum penalty for the unauthorised building on pipeline land to 500 penalty units.

Amendment of s 808 (Restriction on changing surface of pipeline land)

Clause 236 increases the maximum penalty for changing the surface of pipeline land to 500 penalty units.

Amendment of s 809 (Unlawful taking of petroleum or fuel gas prohibited)

Clause 237 increases the maximum penalty for the unlawful taking of petroleum or fuel gas to 1500 penalty units.

Amendment of s 810 (Restriction on building on petroleum facility land)

Clause 238 increases the maximum penalty for the unauthorised building on facility land to 500 penalty units.

Amendment of s 811 (Obstruction of inspector or authorised officer)

Clause 239 increases the maximum penalty for the obstruction of an inspector or authorised officer to 500 penalty units.

Amendment of s 812 (Pretending to be inspector or authorised officer)

Clause 240 changes the maximum penalty for pretending to be an inspector or authorised officer to 200 penalty units.

Amendment of s 813 (False or misleading information)

Clause 241 increases the maximum penalty for the giving of false or misleading information to 500 penalty units.

Amendment of s 843 (Additional information may be required about application)

Clause 242 provides that despite the requirements for the grant or approval of an application under the *Petroleum and Gas (Production and Safety) Act 2004*, the applicant must provide additional information that is required by the decider of the application. Failure to give this additional information may render the application to be refused by the decider.

Amendment of s 853 (Additional information about reports and other matters)

Clause 243 increases the maximum penalty for the failure to give additional information about a document, a report or information required

to be given under the *Petroleum and Gas (Production and Safety) Act 2004* to 500 penalty units.

Amendment of s 858 (Approved forms)

Clause 244 provides that an approved form may be lodged together with an approved form from another Act. For example a joint application could be made for a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004* and an environmental authority under the *Environmental Protection Act 1994*.

Amendment of s 865 (Licences under repealed regulation that become an authorisation)

Clause 245 provides for a longer transitional period of 12 months.

Renumbering of ch 15, pt 3, heading (Transitional provisions for Petroleum and Gas (Production and Safety) Act 2004)

Clause 246 provides for a consequential renumbering of part 3.

Insertion of new ch 15, pt 3

Clause 247 inserts a new part in the *Petroleum and Gas (Production and Safety) Act 2004*.

'Part 3—Transitional provisions relating to 1923 Act

'Division 1—Preliminary

'Definitions for pt 3

Clause 247, section '872 provides for the insertion of specific definitions needed for part 3.

‘What is the *current term* of a converted ATP

Clause 247, section ‘873 provides for a definition of the current term of an authority to prospect. This definition is required as a means of ensuring that no holder is disadvantaged owing to the requirement to comply with other legislation, in particular the *Native Title Act 1993* (Cwlth). Some of the authorities to prospect granted between 1 January 1994 and 23 December 1996 may have a significant proportion of the land subject to native title and effective exploration may not be able to be conducted on the land. The Minister, by being able to decide the day that the current term ends, can individually assess each authority to prospect in respect of the land available to explore and decide a day consistent with their circumstances.

‘What are the *transitional notional sub-blocks* for a converted ATP

Clause 247, section ‘874 defines the transitional notional sub-blocks of a converted authority to prospect. The notional sub-blocks are those listed on the instrument for the converted authority to prospect less any sub-block overlapping a lease under the *Petroleum Act 1923* or the 2004 Act. It is inappropriate that an authority to prospect holder could relinquish land from the authority that overlaps with land in a petroleum lease as the holder could continue to have access to the land under the rights accorded to the petroleum lease. The transitional notional sub-blocks are determined at the start of the current term rather than a grant as there may have already been relinquishments from the authority.

‘Division 2—Conversion of particular 1923 Act ATPs to an authority to prospect under this Act

‘Subdivision 1—Conversion provisions

‘Application of div 2

Clause 247, section ‘875 provides for those authorities to prospect that are to be converted to be administered under the *Petroleum and Gas (Production and Safety) Act 2004*. This is achieved by listing those authorities to prospect that are to continue under the *Petroleum Act 1923*.

A regulation provides for additional authorities to prospect that may continue under the *Petroleum Act 1923*.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause by deciding additional authorities to prospect that are to continue under the *Petroleum Act 1923* determined by regulation. Not all authorities to prospect that are to continue under the *Petroleum Act 1923* may be known at the time of the passing of the legislation. Current applications for which a section 29 notice under the *Native Title Act 1993* (Cwlth) has been issued, may be granted between the passing of and the commencement of the legislation. These authorities to prospect are -+to be identified by a regulation before the commencement of the *Petroleum and Gas (Production and Safety) Act 2004*.

'Conversion on 2004 Act start day

Clause 247, section '876 provides for the conversion of authorities to prospect not listed in section '875 to be converted authorities under the *Petroleum and Gas (Production and Safety) Act 2004*. This section outlines how the relevant provisions and conditions of an authority to prospect are to be transitioned.

'Subdivision 2—Special provisions for converted ATPs

'Exclusion from area of land in area of coal mining lease or oil shale mining lease

Clause 247, section '877 provides for any land in a coal mining lease or oil shale mining lease to become excluded land for the converted authority to prospect. The exclusion of this land is necessary if the coal seam gas regime as provided for in chapter 3 of the *Petroleum and Gas (Production and Safety) Act 2004* is to apply to overlapping land.

'Relinquishment condition if converted ATP includes a reduction requirement

Clause 247, section '878 requires that if a converted authority to prospect is to be reduced to a stated number of blocks on or before stated days, then this becomes the relinquishment condition for the authority. The relinquishment is taken to include a requirement that a minimum

relinquishment of at least five per cent of the transitional notional sub-blocks be relinquished before the next renewal. This ensures that there is a minimal relinquishment requirement no matter what the relinquishment condition provides. Also the relinquishment of any area that is overlapping with a petroleum lease under the *Petroleum Act 1923* or 2004 Act can not count towards the relinquishment condition.

'Relinquishment condition if authority does not include a reduction requirement

Clause 247, section '879 provides that where a converted authority to prospect does not include a relinquishment condition then a standard relinquishment of five per cent for each year of the current term is to apply.

'Provision for conflicting conditions

Clause 247, section '880 provides that if a provision of a converted authority to prospect conflicts with the *Petroleum and Gas (Production and Safety) Act 2004* then the Act will prevail. This applies in all circumstances except in relation to the area of an authority to prospect as the area of a converted authority may exceed 100 blocks as set in section 98(7) of the Act.

'Additional conditions for renewal application

Clause 247, section '881 places and additional condition on the holder of a converted ATP in that the holder can not apply for renewal of the ATP if the relinquishment condition has not been complied with or contains a whole sub-block subject to a petroleum lease or 1923 Act lease. This restriction is to ensure that the area converted authority on renewal is consistent with the intent of the 2004 Act.

'Term of renewed converted ATP

Clause 247, section '882 provides that a renewed converted authority can not be renewed for a term greater than 12 years from the end of the current term is the decision is made before the current term or the day of the decision if after the current term. These start days for the renewed term provides certainty for the holder of the authority to prospect in respect to when the renewed tenure commences.

‘Exclusion of s 98(7) for any renewal

Clause 247, section ‘883 enables an authority to prospect with an area greater than 100 blocks to be renewed.

‘Existing renewal applications

Clause 247, section ‘884 provides for the transition of a renewal application for a converted authority to prospect to become a renewal application under the *Petroleum and Gas (Production and Safety) Act 2004*. This provision does not require the holder to submit a new application for the renewal of the converted authority to prospect.

‘Continued application of 1923 Act, former s 22 to converted ATP for previous acts or omissions

Clause 247, section ‘885 provides for the continued effect for any act or omission done under former section 22 of the *Petroleum Act 1923*. This section provides clarity following the conversion of the authority to prospect and the omission of section 22 in the *Petroleum Act 1923*.

‘Division 3—Unfinished applications for 1923 Act ATPs (other than applications for which a Commonwealth Native Title Act s 29 notice has been given)

‘Application of div 3

Clause 247, section ‘886 provides for what current applications are to continue to be applications under the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Applications for which notice of intention to grant has been given

Clause 247, section ‘887 provides that if the Minister has given a notice of intention to grant before the 2004 Act start day then the applicant becomes the preferred tenderer under the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Applications in response to public notice

Clause 247, section ‘888 provides that if a public notice was given inviting applications for an authority to prospect and the notice complies or substantially complies with a call for tenders, then the notice is taken to be a call for tenders. This provision ensures that the process involved in the invitation for an authority to prospect can continue to completion as a call for tenders.

‘Other applications made before introduction of Petroleum and Other Legislation Amendment Bill 2004

Clause 247, section ‘889 provides for all applications made before the introduction of the Petroleum and Other Legislation Amendment Bill 2004 to continue to be assessed. These applications are taken to a response to a call for tender for an authority to prospect.

‘Lapsing of all other applications

Clause 247, section ‘890 provides for the lapsing of all applications if the applicant has not been given a notice of intention to grant, the application was in response to a public notice or the application was made before the introduction day of the Petroleum and Other Legislation Amendment Bill 2004. The applications lapse on the 2004 Act start day. The lapsing of the undecided applications is intended to facilitate the transition to the new policy of all authorities to prospect being granted as a result of call for tender.

‘Division 4—Transition, by application, from 1923 Act ATP to petroleum lease under this Act

‘Right of 1923 Act ATP holder to apply for petroleum lease

Clause 247, section ‘891 enables the holder of the 1923 Act ATP to apply for a petroleum lease under the *Petroleum and Gas (Production and Safety) Act 2004*. The holder of the 1923 Act authority to prospect may wish to apply for a lease under the *Petroleum and Gas (Production and Safety) Act 2004* so as to avail themselves of the additional rights. The grant of such a lease may be subject to the right to negotiate under the *Native Title Act 1993* (Cwlth).

‘Provisions for deciding application and grant of petroleum lease

Clause 247, section ‘892 provides that the provisions for the grant of a petroleum lease under the *Petroleum and Gas (Production and Safety) Act 2004* apply.

‘Division 5—Conversion of particular 1923 Act leases to petroleum leases

‘Subdivision 1—Conversion provisions

‘Application of sdiv 1

Clause 247, section ‘893 provides for those petroleum leases that are to be converted to be petroleum leases under the *Petroleum and Gas (Production and Safety) Act 2004*.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause by deciding additional petroleum leases that are to be converted to the *Petroleum and Gas (Production and Safety) Act 2004* by regulation. Additional petroleum leases may be granted between the passing and the commencement of the legislation that, except for the timing of their grant, would be converted to be petroleum leases under the *Petroleum and Gas (Production and Safety) Act 2004*. These petroleum leases are the ones to be identified by a regulation before the commencement of the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Conversion on 2004 Act start day

Clause 247, section ‘894 provides for the conversion of petroleum leases listed in section 893 to be converted leases under the *Petroleum and Gas (Production and Safety) Act 2004*. This section outlines how the relevant provisions and conditions of a petroleum lease are to be transitioned.

‘Subdivision 2—Special provisions for converted leases

‘Provision for conflicting conditions

Clause 247, section ‘895 provides that if a provision of a converted petroleum lease conflicts with the *Petroleum and Gas (Production and Safety) Act 2004* then the Act will prevail. This applies in all circumstances except in relation to the area of a petroleum lease as the area of a converted lease may exceed 75 sub-blocks as set in the Act.

‘Sunsetting of particular activities

Clause 247, section ‘896 provides that if the holder of a converted petroleum lease was undertaking an activity that is not an authorised activity under the *Petroleum and Gas (Production and Safety) Act 2004*, then that activity is taken to be an authorised activity for the converted lease. This authorisation ceases to apply five years after the start day. This provision ensures that there is not disruption to authorised activities on the petroleum lease and provides a period of five years for the holder of the lease to ensure that the appropriate petroleum authority is held for all activities.

‘Additional obligation of converted lease holder to lodge proposed later development plan

Clause 247, section ‘897 provides for the holder of a converted petroleum lease to lodge a later development plan for the lease. The requirement to lodge a later development plan is to ensure that the plans are consistent with the intent of the *Petroleum and Gas (Production and Safety) Act 2004*. Different time periods specified depending upon the need for a current development plan and the possibility of any potential conflict with authorised activities under a coal or oil shale mining tenement. The different time periods also reduces the immediate requirement for current lease holders to comply with the requirements for a later development plan. If the holder to the converted petroleum lease does not give a later development plan, then the holder is to be given a notice that a proposed later development plan is required to be submitted 20 business days after the giving of the notice.

‘Consequence of failure to comply with notice to lodge proposed later development plan

Clause 247, section ‘898 provides that if the holder of a converted petroleum lease does not comply with the requirement to provide a later development plan then the lease is cancelled.

It may be considered that there is a breach of a fundamental legislative principle triggered by this clause by not providing a right of appeal in respect to the cancellation of the lease. Before the converted petroleum lease can be cancelled, the holder of the lease is to be given a notice under section ‘897(6) stating that they are required to submit a later development plan within 20 business days of giving the notice. Cancellation can only occur after the notice has been given and the relevant time period lapses.

‘Existing renewal applications

Clause 247, section ‘899 provides for the transition of application to renew a petroleum lease made before the 2004 Act start day and the lease becomes a converted lease. The application is considered to be an application to renew a petroleum lease under the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Exclusion of s 168(8) for any renewal application

Clause 247, section ‘900 provides that section 168(8) (Area of petroleum lease) does not apply to the renewal or any subsequent renewal of the converted petroleum lease as the area of the converted lease may be more than 75 sub-blocks.

‘Lapsing of undecided applications to unite converted leases that relate to a converted lease

Clause 247, section ‘901 provides for any applications that relate to the uniting of a converted petroleum lease to lapse on the 2004 Act start day. The lapsing of these applications is consistent with the policy position in the *Petroleum and Gas (Production and Safety) Act 2004* as there are no provisions in that Act for the uniting of petroleum leases.

‘Division 6—Provisions for particular 1923 Act lease applications and 1923 Act lease renewal applications

‘Subdivision 1—Existing 1923 Act, s 40 applications relating to a CSG-related 1923 Act ATP or a converted ATP

‘Application of sdiv 1

Clause 247, section ‘902 applies the subdivision to particular applications for petroleum leases made under section 40 of the *Petroleum Act 1923* that were undecided at the start day of the 2004 Act and which are not able to be granted under section 40 of *Petroleum Act 1923* or a converted authority to prospect, that is an authority to prospect that becomes an authority to prospect under the 2004 Act on the 2004 start day. This section applies to where there is an overlap between the area of the proposed lease and a coal or oil shale mining tenement.

‘Applications for CSG-related 1923 Act ATPs

Clause 247, section ‘903 provides that for applications for a proposed lease that overlap a coal or oil shale mining tenement then the relevant parts of the chapter 3 coal seam gas provisions will apply for the application. The application requirements will have to be met before the application can proceed. However, substantial compliance provisions apply given that these applications may have been lodged some period prior to the start date and all required timelines may not be able to be met.

‘Other applications

Clause 247, section ‘904 provides that for other undecided applications, the 2004 Act application provisions will apply. If there are overlapping coal or oil shale mining tenements, then the chapter 3 coal seam gas provisions will also apply. Substantial compliance provisions apply given that these applications may have been lodged some period prior to the start date and all required timelines may not be able to be met.

‘Subdivision 2—Petroleum leases provided for under particular agreements before or after 2004 Act start day

‘Application of sdiv 2

Clause 247, section ‘905 provides for this subdivision to relate to applications for a petroleum lease where there is a conjunctive agreement or an Indigenous Land Use Agreement under the *Native Title Act 1993* (Cwlth) relating to the grant of that lease.

‘Petroleum lease under this Act may be granted if so provided

Clause 247, section ‘906 enables an application for a petroleum lease under the *Petroleum Act 1923* to be granted under the *Petroleum and Gas (Production and Safety) Act 2004* if the conjunctive agreement or Indigenous Land Use Agreement of the *Native Title Act 1993* (Cwlth) provides for the granting to the lease under the 2004 Act.

‘Restriction on term of petroleum lease

Clause 247, section ‘907 places restrictions in relation to the term of the petroleum lease. This restriction is necessary to ensure that the term is consistent with the provision in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Division 7—Later grant of petroleum tenure to replace equivalent 1923 Act petroleum tenure

‘Subdivision 1—Applying for and obtaining replacement tenure

‘Right to apply for petroleum tenure

Clause 247, section ‘908 allows for holders of the 1923 Act tenures to apply for an equivalent replacement tenure under the *Petroleum and Gas (Production and Safety) Act 2004*. The grant of the replacement tenure can

not be made before the 2004 Act start day. Excluded land for the existing tenure may become excluded land for the replacement tenure.

'Continuing effect of existing tenure for grant application

Clause 247, section '909 provides for the continuing effect or the existing tenure until the grant application for the replacement tenure is decided. The continuation ensures that the authorised activities under the 1923 Act tenure can continue until the grant application is decided.

'Renewal application provisions apply for making and deciding grant application

Clause 247, section '910 provides that the renewal application provisions apply in relation to the application for the replacement tenure. The application of the renewal provisions are appropriate as the 1923 Act tenure has already been granted rather than as an application for a new tenure.

'Effect of replacement tenure on existing tenure

Clause 247, section '911 provides that if the replacement tenure is granted over all or part of the 1923 Act tenure then that land ceases to be part of the existing tenure. The land ceasing to be part of an existing tenure is consistent with the position of there can not be two petroleum tenures over the same land at the same time.

'Subdivision 2—Special provisions for the replacement tenure

'Restrictions on term and renewed terms

Clause 247, section '912 provides for the ending of when the replacement tenure ends in respect of the current term as at the 2004 Act start day. For an authority to prospect, the replacement tenure must end 12 years after the current term. The definitions of current term are provided. The ending of the authority to prospect as that time is to ensure that the grant of a replacement tenure is not used as a means of having access to land longer than that access would have been available if the replacement tenure had not been granted. The maximum term for a petroleum lease is the shorter of 30 years from the day of grant of the replacement lease or the balance of

the term for the 1923 Act lease. The maximum term of 30 years is consistent with the term for a petroleum lease in *Petroleum and Gas (Production and Safety) Act 2004* section 123(2).

'Relinquishment condition for replacement authority to prospect

Clause 247, section '913 provides for same relinquishment conditions to apply as if they were the replacement tenure.

'Division 8—Matters relating to licence equivalents before 1923 Act start day

'Requests for entry permission

Clause 247, section '914 provides that if a request for an entry permission under the *Petroleum Act 1923* section 67 has been received, then this request is to be treated as an application for a survey licence.

'Entry permissions

Clause 247, section '915 provides that an entry permission granted under the *Petroleum Act 1923* section 67 is taken to be survey licence. The clause also addresses how the relevant conditions and provisions of the entry permission are to be transitioned.

'Pipeline licences

Clause 247, section '916 provides for a pipeline licence under the *Petroleum Act 1923* to become a pipeline licence under the *Petroleum and Gas (Production and Safety) Act 2004*. The clause also addresses how the relevant conditions and provisions of the pipeline licence are to be transitioned.

'Requests for pipeline licence

Clause 247, section '917 provides for a request to grant a pipeline licence under the *Petroleum Act 1923* to become an application for a pipeline licence under the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Approvals under 1923 Act, s 75(5) continue in force

Clause 247, section ‘918 provides that an approval under the *Petroleum Act 1923* section 75(5) continues in force despite the repeal of that Act. The continuation of the permission ensures that the necessary interest in the land to enable the construction and operation of the pipeline is maintained.

‘Refinery permissions

Clause 247, section ‘919 provides for a refinery permission under the *Petroleum Act 1923* section 66 to become a facility licence under the *Petroleum and Gas (Production and Safety) Act 2004*. The clause also addresses how the relevant conditions and provisions of the refinery permission are to be transitioned.

‘Division 9—Securities

‘Monetary securities

Clause 247, section ‘920 provides for the distribution of any security held as money under the *Petroleum Act 1923* for a converted authority to prospect or petroleum lease. The security provided under the *Petroleum Act 1923* may have two components, one part in relation to the security for activities under the *Petroleum Act 1923* and another part being financial assurance in relation to environmental issues. After the start day, all financial assurance will be provided for under the *Environmental Protection Act 1994*. This clause provides for a formula for the split of the all currently held security into security under the *Petroleum and Gas (Production and Safety) Act 2004* and financial assurance under the *Environmental Protection Act 1994*.

‘Non-monetary securities

Clause 247, section ‘921 provides that after the 2004 Act start day, any security for a converted authority in a non-monetary form (for example a bank guarantee) can be used for the purpose for which it was given. This provision is required, as current security has been provided for under the *Petroleum Act 1923* for use under both the *Petroleum Act 1923* and the *Environmental Protection Act 1994*. This clause allows for the current arrangements to continue until separate security and financial assurance is

provided under the *Petroleum Act 1923* or the *Environmental Protection Act 1994* respectively.

‘Division 10—Compensation

‘Accrued compensation rights relating to converted petroleum authority

Clause 247, section ‘922 provides for when the new compensation provisions are to apply. If the liability to compensate arose before the start day then the compensation is to be decided under the provision in the *Petroleum Act 1923* as in force immediately before the 2004 Act start day. This provision ensures the amount of compensation is assessed in accordance with the provisions that existed when the liability occurred. The accrued compensation rights are not affected just because a petroleum authority is converted to be a petroleum authority under the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Existing compensation agreements relating to converted petroleum authority

Clause 247, section ‘923 provides that if an agreement was in existence before the 2004 Act start day then the agreement is taken to be an agreement under chapter 5, part 5 of the *Petroleum and Gas (Production and Safety) Act 2004*. The agreement is valid whether or not a copy of the agreement had been forwarded to the warden. An agreement can be reviewed by the Land and Resources Tribunal but any reassessment of compensation must be in accordance with clause 247, section ‘922.

‘Division 11—Miscellaneous provisions

‘Conversion of unitisation arrangement or unit development agreement to coordination arrangement

Clause 247, section ‘924 provides for the unitisation arrangement or unit development agreement to become a coordination arrangement under the *Petroleum and Gas (Production and Safety) Act 2004*. The transition of the arrangements and agreements to coordination arrangements provides the mechanism for their future administration.

‘Entry notices under Petroleum Regulation 1966, s 17

Clause 247, section ‘925 provides for an entry notice given under *Petroleum Regulation 1966*, section 17 to be a notice of entry for the converted petroleum authority.

‘Provisions for petroleum royalty

Clause 247, section ‘926 ensures that if immediately before the 2004 Act start day, royalty was payable under the *Petroleum Act 1923*, then the royalty may be recovered under the *Petroleum and Gas (Production and Safety) Act 2004*. This provision is necessary as after the 2004 Act start day, all royalty will be collected under the *Petroleum and Gas (Production and Safety) Act 2004* chapter 6.

‘Corresponding approvals and decisions under 1923 Act for a converted petroleum authority

Clause 247, section ‘927 provides that an approval or decision under the *Petroleum Act 1923* is taken to be an approval or decision under the *Petroleum and Gas (Production and Safety) Act 2004* for the corresponding matter. This taking of an approval or decision is to apply to a converted authority, a replacement tenure, or for a 1923 Act lease renewed as a 2004 Act lease. The holder of an authority, replacement tenure or renewed lease and will not be required to obtain a second approval under the *Petroleum and Gas (Production and Safety) Act 2004* in relation to the same matter.

‘Existing dealing applications

Clause 247, section ‘928 provides for an existing dealing application under the *Petroleum Act 1923*, if it is a permitted dealing, to become an application under the *Petroleum and Gas (Production and Safety) Act 2004*. This ensures that a new application does not have to be submitted in relation to the dealing. If the application was for another type of dealing then the application lapses as it is outside the scope of the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Continuance of fees under 1923 Act

Clause 247, section ‘929 provides that if there is an existing fee, then that existing fee is taken to be the prescribed fee under the *Petroleum and Gas*

(Production and Safety) Act 2004 until a fee is prescribed under the *Petroleum and Gas (Production and Safety) Act 2004*.

'Fees for existing applications

Clause 247, section '930 provides that if an application made before the 2004 Act start day is undecided and a fee is payable in relation to the application, then the Minister may waiver the payment of the fee.

'References in Acts and documents to 1923 Act

Clause 247, section '931 provides that if a reference is made to the *Petroleum Act 1923* in an Act or document, then the reference is taken to be a reference to the *Petroleum and Gas (Production and Safety) Act 2004* if the context permits.

Renumbering of ss 872-993

Clause 248 renumbers nominated sections in the *Petroleum and Gas (Production and Safety) Act 2004*.

Amendment of s 933 as renumbered under this Act (Deferral of s 115(1) for existing petroleum leases)

Clause 249 provides for an extension of time to 12 months after the 2004 Act start day for the need for a coordination arrangement for the production of petroleum from a coextensive reservoir.

Amendment of s 934 as renumbered under this Act (Substituted restriction for petroleum leases relating to mineral hydrocarbon mining leases)

Clause 250 provides for a clarification in relation to when the restriction applies in relation to incidental coal seam gas in the mine working envelope.

Renumbering of ch 15, part 4 as renumbered under this Act, div 3

Clause 251 renumbers nominated sections in the *Petroleum and Gas (Production and Safety) Act 2004*.

Insertion of new ch 15, part 4 as renumbered under this Act, div 3

Clause 252 inserts a new division in the *Petroleum and Gas (Production and Safety) Act 2004*.

'Division 3—Provisions for existing Water Act bores

'Exemption from, or deferral of, reporting provisions for existing petroleum tenure holders

Clause 252, section '934A requires a holder of a petroleum tenure in force on the 2004 Act start day to provide a statement in respect to a need to produce an impact report for their tenure. The chief executive may after considering the statement require the petroleum tenure holder to produce an impact report by a specified reasonable time. The holder of the petroleum tenure may be required to provide additional information to the chief executive in relation to the need for an impact report. This will ensure that the chief executive has the necessary information in assess the need for the report. The ability of the chief executive to require an impact report ensures that an impact report is produced only for tenures where petroleum production is likely to have an effect on existing Water Act bores.

'Make good obligation only applies for existing Water Act bores on or from the 2004 Act start day

Clause 252, section '934B provides that all Water Act bores existing or come into existence after the 2004 Act start day are eligible for the make good obligation. The extension of the make good obligation to all existing bores on the 2004 Act start day is needed as it is impossible to always determine the date of construction of a bore and thereby its eligibility for the make good obligation.

Amendment of s 935, as renumbered under this Act (Continuation of petroleum royalty exemption for flaring or venting under 1923 Act)

Clause 253 provides minor grammatical changes in respect to the amended section.

Insertion of new s 935A

Clause 254 inserts a new section in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘Deferred application of s 526 for particular petroleum authority holders

Clause 254, section ‘935A provides that if immediately before the 2004 Act start day, a petroleum tenure holder was lawfully carrying out an activity on public land, the petroleum authority holder has six months to obtain the public land authority’s approval for the activity. The six months is needed so as not to require the petroleum authority holder to cease activity until approval is obtained.

Insertion of new s 942A (Amendment of s 41 *of Act No. 39 of 1999*)

Clause 255 inserts a new section in the *Petroleum and Gas (Production and Safety) Act 2004*.

‘942A Amendment of s 41 (Obligations of coal mine operators)

Clause 255, section ‘942A amends section 41 of the *Coal Mining Safety and Health Act 1999* to provide an obligation that activities on the area of a coal mine can not be carried out if the activity is creating an unacceptable level of risk to a person on an adjacent or overlapping petroleum authority. A similar provision is provided in the *Mineral Resources Act 1989* with respect to property.

Amendment of s 944, as renumbered under this Act (Amendment of sch 2 (Subject matter for regulations) *of Act No. 39 of 1999*)

Clause 256 modifies the matters relating to the subject matter of the regulations so that they cover all relevant matters for the coal seam gas regime regulations. Additional matters included are drilling, completion and abandonment of holes, matters relating to hazard identification, monitoring, response and reporting requirements. This includes requirements for principle hazard management plans for both impacts of coal mining on petroleum activities and impacts of coal seam gas activities on coal mining operations.

Power is also provided for a regulation to be made allowing for exemptions to parts or all of the regulation requirements. The exemption may be for a particular seam or a particular coal mining operation. Such exemptions are restricted only to the coal seam gas regime related regulations. The exemption provision is necessary because universal application of all of the coal seam gas regulations requirements may not be necessary or appropriate in every situation. There may be a number of situations where the requirements are unnecessary, irrelevant, or where the safety outcomes can be achieved in another manner. Exemptions need to be considered on a case by case basis as they would be site specific and can not be regulated for. It is intended that such exemptions will only be provided if the level of risk remains at an acceptable level and the safety outcomes are still provided for.

Amendment of s 985, as renumbered under this Act (Amendment of s 239 (Contingency supply plans–content requirements) *of Act No. 29 of 2003*)

Clause 257 modifies the section to refer more generally to safety related provisions rather just referring to safety management plans. This change has been made to ensure other safety provisions such as safety requirements and obligations under this Act are covered by this section.

Insertion of new s 993A (Insertion of new s 132A *of Act No. 12 of 2004*)

Clause 258 inserts a new section in the *Geothermal Exploration Act 2004*.

Insertion of new s 132A

Clause 258, section ‘993A inserts section ‘‘132A in the *Geothermal Exploration Act 2004*.

‘‘Application of petroleum safety provisions to geothermal exploration

Clause 258, section ‘‘132A amends the *Geothermal Exploration Act 2004* to provide that the relevant safety provisions of the *Petroleum and Gas (Production and Safety) Act 2004* will apply to facilities and plant used for geothermal exploration. It is intended that such plant be subject to and administered under, the listed provisions of the petroleum legislation.

Amendment of s 1010, as renumbered under this Act (Insertion of new s 3A *of Act 110 of 1989*)

Clause 259 makes minor amendments to the provision on the relationship with petroleum legislation in the *Mineral Resources Act 1989*. The amendment ensures that petroleum facilities and pipeline licences are appropriately considered under this section.

Amendment of s 1020, as renumbered under this Act (Insertion of new pt 7AA *of Act 110 of 1989*)

Clause 260 amends a number of sections of the inserted new chapter 7AA in the *Mineral Resources Act 1989* which implements the coal seam gas regime.

'Restriction on carrying out particular authorised activities

Clause 260, section ' '318CR provides for clarification of the restriction of mining of coal seam gas that comes, or is likely to come, from the part of the reservoir that is in the area of an adjacent lease or proposed adjacent lease.

Insertion of new s 1025A, as renumbered under this Act (Insertion of new s 396A *of Act No. 110 of 1989*)

Clause 261 inserts a new section 396A in the *Mineral Resources Act 1989.*

'1025A Insertion of new s 396A

Clause 261, section '1025A inserts a new section in the *Mineral Resources Act 1989*.

''Transfer of coal exploration or production well to petroleum tenure holder

Clause 261, section ''396A provides for a coal exploration or production well to be transferred to an overlapping petroleum tenure holder. This is intended to assist in situations of coordinated development. Transferring the well means that all control and responsibilities are transferred along with any liabilities or obligations that there may be in relation to the well under relevant legislation.

Amendment of s 1027, as renumbered under this Act (Amendment of s 417 *of Act 110 of 1989*)

Clause 262 inserts an additional matter in section 417 for which regulations can be made. This provides for regulations to be made with respect to drilling, completion and abandoning drill holes and hazard reporting. These matters are of prime relevance to the coal seam gas regime regulations.

Amendment of s 1028, as renumbered under this Act (Insertion of new pt 19, div 6 *of Act 110 of 1989*)

Clause 263 modifies section 739 inserted in the transitional provisions. The section has be clarified in line with the intention that while a revised work program can be submitted, it has to be approved by the Minister in accordance with relevant section on work programs.

Amendment of s 1045, as renumbered under this Act (Amendment of s 203 *of Act 34 of 2000*)

Clause 264 amends the definition of petroleum tenure holder in the *Water Act 2000* to include petroleum tenure under either the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*.

Insertion of new s 1052A (Insertion of new s 1136A *of Act No. 34 of 2000*)

Clause 265 amends the *Water Act 2000.*

'1052A Insertion of new s 1136A

Clause 265, section '1052A inserts a new section into the *Water Act 2000.*

'Transitional provision for the Petroleum and Other Legislation Amendment Act 2004

New section ' '1136A provides that before the Petroleum and Other Legislation Amendment Bill 2004 was introduced into Parliament, no water licence had been refused owing to authorised petroleum activities. Therefore there will be no priority group in relation to the specific type of water licence that attaches to a petroleum tenure.

Insertion of new ch 16, pt 28

Clause 266 inserts a new part in the *Workplace Health and Safety Act 1995*.

'Part 28—Amendment of Workplace Health and Safety Act 1995

'1054 Act amended in pt 28

Clause 266, section '1054 amends the *Workplace Health and Safety Act 1995*.

'1055 Amendment of s 3 (Application of Act)

Clause 266, section '1055 amends the *Workplace Health and Safety Act 1995*. The *Workplace Health and Safety Act 1995* is amended to exclude its application to tenures under the new petroleum legislation and also to exclude activities under the *Geothermal Exploration Act 2004*.

Amendment of sch 1 (Reviews and appeals)

Clause 267 inserts additional decisions subject to review or refusal.

Amendment of sch 2 (Dictionary)

Clause 268 omits, amends and inserts definitions in the schedule 2 (Dictionary) of the *Petroleum and Gas (Production and Safety) Act 2004*. The additional definitions are needed to address the requirements arising from the transitional provisions.

Part 4—Amendment of Environmental Protection Act 1994

Act amended in pt 4

Clause 269 states that the part amends the *Environmental Protection Act 1994*.

Insertion of new ch 13, pt 6

Clause 270 inserts a new part into chapter 13 of the *Environmental Protection Act 1994*. The new part transitions existing security held for a petroleum tenure under either the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004* to become the financial assurance as security for the related environmental authority. Once the transfer of the security is affected, the requirement under section 364 (When financial assurance may be required) of the *Environmental Protection Act 1994* is taken to have been complied with. The clause also provides for the amendment of the financial assurance transferred to the relevant environmental authority by requiring the giving of a replacement financial assurance in a form and an amount decided by the Environmental Protection Agency.

'Part 6—Transitional provisions for Petroleum and Other Legislation Amendment Act 2004

'Financial assurance if security for related petroleum authority is monetary

Clause 270, section '631 provides that a security held as money for the environmentally related security for a *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004* tenure is transferred to be the financial assurance for the re environmental authority. The clause also provides tha condition has been imposed under the *Environmental Protection Act 1994* that the holder of the environmental authority give financial assurance for the authority.

'Financial assurance if security for related petroleum authority is non-monetary

Clause 270, section '632 provides that a security held in a non-monetary form for the environmentally related security for a Petroleum Act 1923 or the *Petroleum and Gas (Production and Safety) Act 2004* tenure, access to the non-monetary security is available to administering authority for 12 months after the 2004 Act s

day or before if an amendment to the non-monetary security made.

'Effect of financial assurance on the security

Clause 270, section '633 provides that security given for matters under the Petroleum Act 1923 the *Petroleum and Gas (Production and Safety) Act 2004* are not affected by this part.

'Amendment of financial assurance condition under this part

Clause 270, section '634 provides that the financial assurance may be amended by the administering authority and that certain sections of the *Environmental Protection Act 1994* do, and other sections do not, apply to the amendment.

Part 5—Amendment of Forestry Act 1959

Act amended in pt 5

Clause 271 amends the *Forestry Act 1959*.

Amendment of s 5 (Definitions)

Clause 272 provides for activities under the *Petroleum and Gas (Production and Safety) Act 2004* to be considered to be mining activities under the *Forestry Act 1959*.

Part 6—Amendment of Nature Conservation Act 1992

Act amended in pt 6

Clause 273 states that the part amends the *Nature Conservation Act 1992*.

Amendment of s 27 (Prohibition on mining)

Clause 274 amends the existing section that prohibits the grant of either a petroleum tenure under the *Petroleum Act 1923* or a petroleum authority, other than a survey licence or pipeline licence, under the *Petroleum and Gas (Production and Safety) Act 2004* in relation to a conservation park and certain types of national parks.

Insertion of new s 70QA

Clause 275 inserts a new section into part 4A of the *Nature Conservation Act 1992*.

7OQA Prohibition on mining in forest reserves

Clause 275, section '70QA prohibits the grant of either a mining authority, petroleum tenure under the *Petroleum Act 1923* or a petroleum authority under the *Petroleum and Gas (Production and Safety) Act 2004,* in relation to a forest reserve.

Schedule—Minor amendments

The schedule provides uncontroversial corrections and other minor changes of a drafting nature for the *Petroleum and Gas (Production and Safety) Act 2004* are included in the schedule of Petroleum and Other Legislation Amendment Bill 2004. These amendments are for clarity, cross-referencing, relocation and renumbering reasons.