North Stradbroke Island Protection and Sustainability and Other Acts Amendment Bill 2015

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by the Honourable Steven Miles MP, Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef

Title of the Bill

The short title of the Bill is the *North Stradbroke Island Protection and Sustainability and Other Acts Amendment Bill 2015*.

Objectives of the Amendments

The objectives of the amendments are to:

- change the date for when the Yarraman mining lease (ML1109) ends to meet commitments made to stakeholders;
- clarify that the threatened ecosystem to be considered for an amendment to the restricted mine path map is by reference to the biodiversity status;
- deem a rehabilitation authorisation over the ML1109 area to ensure continuity of access by the mining operator;
- allow the restricted mine path map to be amended up to 6 months after commencement;
- clarify when an Indigenous Land Use Agreement (ILUA) is required;
- ensure that the mining operator can effectively manage its safety and health obligations under a rehabilitation authorisation; and
- clarify that a rehabilitation authorisation can be issued prior to expiry of the relevant tenure and will cover decommissioning activities necessary for the rehabilitation and environmental management of the land.

Achievement of the Objectives

The amendments will achieve the objectives outlined above by:

North Stradbroke Island Protection and Sustainability Act 2011

- The policy objective of changing the date for when ML1109 ends is achieved through the amendment to the termination date of ML1109 in section 9 of this Act.
- The policy objectives of allowing the restricted mine path map to be amended up to 6 months after commencement and clarifying when an ILUA would be required is achieved through amendments to section 18 of this Act.
- The policy objective of deeming a rehabilitation authorisation over the ML1109 area is achieved through transitional provisions, which deem a rehabilitation authorisation to be in place, suspend the operation of related provisions, and require consultation with the native title holders before giving notices under the safety and health legislation which define the operational area of the mine.

Coal Mining Safety and Health Act 1999

- The policy objective of ensuring that the mining operator can effectively manage its safety and health obligations under a rehabilitation authorisation is achieved through allowing the operator to identify an operational area via notice to the chief executive.

Environmental Protection Act 1994

- The policy objective of clarifying that the environmental authority applies to expired resource tenures is achieved by inserting a new clause to remove any doubt that the environmental authority continues to apply to expired or cancelled resource tenures.

Mineral Resources Act 1989

- The policy objective of clarifying that a rehabilitation authorisation can be issued prior to expiry of the relevant tenure and will cover decommissioning activities necessary for the rehabilitation and environmental management of the land is achieved through amendments to sections 344 to 344B of this Act.

Mining and Quarrying Safety and Health Act 1999

- The policy objective of ensuring that the mining operator can effectively manage its safety and health obligations under a rehabilitation authorisation is achieved through allowing the operator to identify an operational area via notice to the chief executive.

Alternative Ways of Achieving Policy Objectives

These amendments make changes to the existing amendments to improve administrative processes and clarify policy intent and, therefore, there are no other ways of achieving the policy objectives.

Estimated Cost for Government Implementation

The amendments are to be implemented within current budget allocations.

Consistency with Fundamental Legislative Principles

These amendments are consistent with fundamental legislative principles.

Consultation

The department consulted with the two key stakeholders during the finalisation of these amendments. Most of the amendments address concerns raised by stakeholders during the Parliamentary Committee process.

NOTES ON PROVISIONS

North Stradbroke Island Protection and Sustainability Act 2011

Clause 6 (Amendment of s 9 (Termination of mining lease 1109 if not renewed))

Clause 1 amends clause 6 of the Bill which amends section 9 of the *North Stradbroke Island Protection and Sustainability Act 2011*. This clause currently provides for the Yarraman mining lease (ML1109) to terminate 12 months after commencement of the Bill. This termination date provided the government with time to develop a process and guideline for the new rehabilitation authorisation under chapter 13, part 4 of the *Mineral Resources Act 1989*.

Following further consultation with the mining operator (Sibelco Australia Limited) and the native title holders (the Quandamooka Yoolooburrabee Aboriginal Corporation), it was determined that ML1109 should end on the date of commencement of the Bill, and not have a further 12 month delay. Under the new transitional provisions for the *Mineral Resources Act 1989*, inserted with these amendments, the area of ML1109 will have a deemed rehabilitation authorisation upon commencement of the Bill. This will enable uninterrupted access for the mining operator to undertake rehabilitation.

Clause 13 (Replacement of s 17 (Replacement of environmental authority MIN100971509))

Clause 2 amends clause 13 of the Bill which inserts sections 16 to 21 into the *North Stradbroke Island Protection and Sustainability Act 2011*. This amendment amends **section 16 (Definitions for division)** to clarify that the threatened ecosystem definition refers to the 'biodiversity status' on the Regional Ecosystem Description Database. This removes any doubt that it is the biodiversity status in the Regional Ecosystem Description Database which is relevant to amending the restricted mine path, not the vegetation management class. This is consistent with other planning and management assessments for the regulation of the mining industry under the Environmental Protection Act 1994.

Clause 13 (Replacement of s 17 (Replacement of environmental authority MIN100971509))

Clause 3 amends clause 13 of the Bill which inserts sections 16 to 21 into the *North Stradbroke Island Protection and Sustainability Act 2011*. This amendment amends **section 18 (Application by Enterprise Mine lease holder to amend restricted mine path map area)** to change the timeframe in which the mining operator must apply to amend the restricted mine path.

Following further consultation with Sibelco Australia Limited and the Quandamooka Yoolooburrabee Aboriginal Corporation, a timeframe of six months was determined to be more reasonable. This is because the application must be accompanied by a cultural heritage study and the approval of the application requires an Indigenous Land Use Agreement

(ILUA). Consequently, this amendment changes the deadline from 4 months after commencement of the Bill to 6 months after commencement of the Bill.

Clause 13 (Replacement of s 17 (Replacement of environmental authority MIN100971509))

Clause 4 amends clause 13 of the Bill which inserts sections 16 to 21 into the *North Stradbroke Island Protection and Sustainability Act 2011*. This amendment amends **section 19 (Minister to decide application)** to clarify the requirements for an ILUA to any additional land. The current Bill provides that the Minister may only amend the restricted mine path map area to add an area of land if (in addition to other criteria) there is an ILUA that regulates future land acts in relation to the land.

This requirement assumes that the amended mine path involves a future act (as defined by the *Native Title Act 1993* (Cwlth), which may not be the case.

However, an ILUA should be entered into to regulate how the relevant land will be used and managed in the future.

This is because an ILUA is not limited to addressing future acts. It could be required to address matters such as:

- the relationship between native title rights and interests and other rights and interests in relation to the area;
- the manner of exercise of any native title rights and interests or other rights and interests in relation to the area; and
- any other matter concerning native title rights and interests in relation to the area.

An ILUA is only required for any land added to the restricted mine path map area. Unlike the current ILUA, which is between the native title holders and the State of Queensland, this ILUA should be between the native title holders and the mining operator.

Consequently, this amendment changes section 19 to clarify that:

- the ILUA is only needed for the additional areas of land added to the restricted mine path map;
- that the ILUA would be between the mining operator and the native title holders; and
- that it does not only cover future acts.

Note: ILUA is defined in the existing section 19 to be an indigenous land use agreement under the *Native Title Act 1993* (Cwlth).

Clause 13 (Replacement of s 17 (Replacement of environmental authority MIN100971509))

Clause 5 amends clause 13 of the Bill which inserts sections 16 to 21 into the *North Stradbroke Island Protection and Sustainability Act 2011*. This amendment amends **section**

19 (Minister to decide application) to omit the definition of 'future act' which is no longer required as a result of the above amendment to section 19.

After clause 13

Clause 6 inserts a new clause 13A into the Bill which inserts transitional provisions into the *North Stradbroke Island Protection and Sustainability Act 2011*. The actual transitional provisions are inserted by clause 7 of these amendments.

Clause 14 (Omission of ss 23 and 24)

Clause 7 amends clause 14 of the Bill which omitted sections 23 and 24 of the *North Stradbroke Island Protection and Sustainability Act 2011*. These section numbers will now be used for the transitional provisions to the Bill. These transitional provisions support the termination of ML1109 on the date of commencement by suspending the vesting of property on expiry of a mining lease to the State, and deeming a rehabilitation authorisation to be granted over the area of ML1109.

Section 23 Operation of Mineral Resources Act, s 312 – termination of mining lease 1109

This section ensures that property on ML1109 at the time the mining lease ends does not immediately vest in the State.

Under section 312(4) of the *Mineral Resources Act 1989*, when a mining lease is terminated, the ownership of all mineral and property on the land in the area of the terminated lease divests from the owner and vests in the State. This would mean that, upon commencement of the Bill, equipment and offices would become the property of the State, despite the fact that they may still be needed for the rehabilitation to be completed. This only applies to property brought onto the land under the terminated lease, so property brought on under the rehabilitation authorisation would not be affected.

Ordinarily, the owner could make an application to remove the mineral or property from the land under section 313 of the *Mineral Resources Act 1989*. However, in the case of ML1109, there could be a delay between the statutory termination of the mining lease and obtaining an approval under section 313. Consequently, this section suspends the divestment of property for the period of the deemed rehabilitation authorisation (i.e. 3 years). This will have the effect that the property will not divest from the owner until the deemed rehabilitation authorisation comes to an end.

If, after the deemed rehabilitation authorisation comes to an end, the mine operator needs a further rehabilitation authorisation under section 344A(3), then the owner

could apply for a section 313 approval to match the term of their new rehabilitation authorisation.

Note: this will only apply to property on ML1109, not to minerals. Ownership of the stockpiled minerals will still vest in the State and the owner will still need a section 313 approval to remove the stockpiled minerals.

Section 24 Authority to enter particular land – holder of environmental authority EPML00575913

This section deems the holder of the Yarraman mine environmental authority to have a rehabilitation authorisation under section 344A(3) of the *Mineral Resources Act 1989*. This amendment supports the termination of ML1109 on the date of commencement under the amendments to section 9 of the *North Stradbroke Island Protection and Sustainability Act 2011*. The deemed authorisation will ensure that the mine operator continues to have access to the area to complete rehabilitation activities following termination of the mining lease.

(Note: the remaining provisions of section 344A which are inserted by this Bill will also apply to a deemed authorisation under this section. This means that subsections (3A) to (7) also apply.)

The deemed authorisation is for a period of 3 years over the entire area of ML1109. If rehabilitation activities on ML 1109 are not completed within three years, the chief executive will need to issue another rehabilitation authorisation at the end of three years for the area requiring rehabilitation at that time.

Section 344A(5) requires that there be a provision of an Act which prevents the holder of an expired mining lease from applying to renew the mining lease. At the end of three years, section 9 of the *North Stradbroke Island Protection and Sustainability Act 2011* will continue to prevent an application for the renewal of ML1109, so the requirements for the chief executive to grant a rehabilitation authorisation under section 344A(3) will be met.

As part of the deeming of the rehabilitation authorisation for ML1109, this section also deems that the entry notice requirements in sections 344B and 344C of the *Mineral Resources Act 1989* have been met. Otherwise, the mine operator would be required to give at least 10 business days notice before entering the land, which would delay the ability of the mine operator to access the site to undertake rehabilitation.

In this particular instance, there are no freehold or leasehold owners to notify. In addition, both the State and the native title holders are aware that the mine operator will continue to access the site upon expiry of ML1109 and commencement of the rehabilitation authorisation. Therefore, any requirement to give notice would be superfluous.

To avoid any doubt, if any compensation is payable by the mine operator to the native title holders under section 348 as a result of this deemed authorisation, this

compensation would be payable by the mine operator, as it would for an authorisation granted under section 344A in ordinary circumstances.

Section 25 Obligation of holder of particular authority to consult about land comprising mine

This section requires the mining operator for the deemed authorisation to consult with the native title holders about the operational area of the mine under expired mining lease ML1109, while the deemed authorisation is in effect.

Through the amendments in the Bill, a 'mine' under the *Mining and Quarrying Safety and Health Act 1999* will include a place where a section 344A(3) authorisation is in place.

Under the clause 18 of these amendments, it is proposed to amend the definition of 'mine' so that the operator can define the operational area for the section 344A(3) authorisation. The definition of 'mine' is being linked to the definition of 'operations' and this enlivens sections 47 of the *Mining and Quarrying Safety and Health Act 1999,* which requires the mine operator to give an inspector notice of (amongst other things) a description of the land (including its boundary) comprising the mine or part of the mine.

During consultation, the Quandamooka Yoolooburrabee Aboriginal Corporation raised concerns that, for the deemed authorisation over ML1109, this could allow Sibelco to give notice that the entire area is an operational area. This would be inconsistent with their negotiations with Sibelco about agreeing which areas would be operational and which would be non-operational (the access agreement).

Consequently, it is proposed to address these concerns via a transitional provision in two parts that requires that, for the deemed authorisation (i.e. for ML1109), the operator must provide evidence of consultation with the native title holder about the area of the 'mine' under s.9, when giving a notice under section 47 of *Mining and Quarrying Safety and Health Act 1999*.

Clause 16 (Amendment of sch 3 (Dictionary))

Clause 8 amends clause 16 of the Bill which amends the Dictionary to the *North Stradbroke Island Protection and Sustainability Act 2011*. This amendment amends **section 19 (Minister to decide application)** to insert a definition of 'registered native title body corporate', which is required as a result of the above amendment to section 19.

Clause 16 (Amendment of sch 3 (Dictionary))

Clause 9 amends clause 16 of the Bill which amends the Dictionary to the *North Stradbroke Island Protection and Sustainability Act 2011*. This amendment amends the definition of 'NSI mining interest' to ensure that an approval under section 313 of the *Mineral Resources Act 1989* can be issued. This is needed because, following the termination of a mining lease

on North Stradbroke Island, the mine operator may wish to remove stockpiled minerals from the site. This may be necessary in order to adequately rehabilitate the land.

However, in order for this to happen, the mine operator would need an approval to remove the stockpiled mineral or property under section 313 of the *Mineral Resources Act 1989*. It is arguable that section 14 of the *North Stradbroke Island Protection and Sustainability Act 2011* would currently prevent that from happening because of the definition of 'NSI mining interest'. Therefore, this amendment ensures that section 313 approvals can be issued over land on North Stradbroke Island.

Coal Mining Safety and Health Act 1999

Clause 18 (Amendment of s 9 (Meaning of *coal mine*))

Clause 10 amends clause 18 of the Bill which amends section 9 of the *Coal Mining Safety and Health Act 1999*. Clause 18 currently clarifies that the *Coal Mining Safety and Health Act 1999* applies to a site for which a rehabilitation authorisation has been issued under section 344A(3) of the *Mineral Resources Act 1989*.

During consultation concerns were raised that the current drafting does not allow mine operators to differentiate between operational areas for the rehabilitation authorisation and non-operational areas for the rehabilitation authorisation. This would mean that the operator would be responsible for safety across the entire area of the authorisation.

This is different from how the *Coal Mining Safety and Health Act 1999* currently applies to other types of 'coal mine' as defined in section 9. For example, paragraph (1)(a) of the definition states that a coal mine is a place where on-site activities are carried on within a mining tenure. Therefore, the safety and health definition of 'coal mine' does not include all of the land within the mining tenure, only the areas where 'on-site activities' are being carried out. The term 'on-site activities' is then defined in section 10 to include activities carried on principally for, or in connection with, exploring for or winning coal. The definition of 'on-site activities' includes rehabilitating a place after coal mining operations.

In addition, section 49(2) of the *Coal Mining Safety and Health Act 1999* requires the mine operator to inform the chief executive of the boundary of the mine (i.e. the 'coal mine' as defined by section 9). Section 50(3) requires the mine operator to inform the chief executive if the boundary of the mine changes. Consequently, this means that the mining operator can define the 'operational area' for its site, provided the definition of 'coal mine' refers to 'on-site activities'.

As a result, this amendment removes the previous amendment to subsection (d) of the definition of 'coal mine' and instead adds a new subsection (f) which limits the definition of 'coal mine' to the parts of the authorisation area where on-site activities are carried on.

Environmental Protection Act 1994

After clause 20

Clause 11 inserts a new clause 20A into the Bill which amends section 201 of the *Environmental Protection Act 1994*. This amendment removes any doubt that a resource

tenure referenced in an environmental authority continues to apply, despite the fact that the tenure has expired or been cancelled.

Environmental authorities under the *Environmental Protection Act 1989* regulate resource activities by listing the resource authority permit (e.g. ML 1234) to indicate the area to which the environmental authority applies. When this permit is cancelled or expires, the environmental authority will continue to list this permit as the geographical area to which the authority applies despite the fact that it has come to an end. In order to remove any doubt that the environmental authority continues to regulate the land of a former resource authority, this amendment makes it clear that the environmental authority continues to apply to the area of the former resource authority.

If, for example, an environmental authority states that it applies to mining lease permit 'ML1234' and that permit expires, it is arguable that the environmental authority may cease to extend to the area of ML1234 and the obligations in relation to ML1234 could become unenforceable. This is clearly contrary to the intent of the *Environmental Protection Act 1994,* which requires that an environmental authority can only end if it is cancelled or surrendered.

This is particularly significant in relation to rehabilitation obligations that are contained in the environmental authority and the new rehabilitation authorisation proposed by clause 27 of the Bill. The proposed new rehabilitation authorisation in section 344A(3) of the *Mineral Resources Act 1989* enables an authorisation to be granted to enable the holder of an 'environmental authority that is in force for the land to enter the land' to complete rehabilitation. Rehabilitation authorisations would only be granted to enable access to land which has no current mining lease or mining claim (see section 344A(5) of the Bill). However, where no current mining lease or mining claim exists, there could be confusion as to whether there is an environmental authority 'in force' for the area of land which was covered by that former mining lease or mining claim. Consequently, this amendment makes that connection clear and removes any possible doubt, thereby ensuring that rehabilitation authorisations are effective.

This section does not refer to a rehabilitation authorisation under section 344A(3) of the *Mineral Resources Act 1989* because, if the area that the environmental authority applies to needs to be amended, this could be achieved via an amendment to the authority itself, through the usual process in the *Environmental Protection Act 1994*.

Mineral Resources Act 1989

Clause 26 (Amendment of s 344 (Definitions for pt 4))

Clause 12 amends clause 26 of the Bill which amends section 344 of the *Mineral Resources Act 1989*. Clause 26 currently amends the definition of 'abandoned mine' (amongst other things) to distinguish it from the definition of a 'final rehabilitation site'. Due to the proposed amendments to section 344A, the definition of 'abandoned mine' is amended to clarify that an abandoned mine is one where both the tenure and the associated environmental authority for the mining activity are no longer current.

The clarification also means that for historic mine sites with mining legacy issues, the site can continue to be an abandoned mine as long as there is no mining lease or mining claim in force

and no environmental authority for mining activities carried out under a mining lease or mining claim.

For abandoned mines that have since had a new low impact tenure issued over them, for example for an exploration permit, the site can continue to be managed by the department as an abandoned mine in these circumstances.

Clause 26 (Amendment of s 344 (Definitions for pt 4))

Clause 13 amends clause 26 of the Bill which amends section 344 of the *Mineral Resources Act 1989*. Clause 26 currently inserts a new definition of 'final rehabilitation site' (amongst other things). This amendment changes that definition to remove paragraph (b), which means that a final rehabilitation site can include a site where there is a current mining lease or mining claim.

This is because the current definition means that the mining claim or mining lease must have expired before the rehabilitation authorisation under section 344A(3) can be issued. This could lead to a time lag between the expiry of the tenure and the rehabilitation authorisation taking effect.

Stakeholders have raised concerns with this because they may require uninterrupted access to the site to ensure that rehabilitation activities can be carried out.

Consequently, paragraph (b) of the definition, which required that a final rehabilitation site be a site 'for which no current mining lease or mining claim is granted', has been removed. The rest of the definition is unchanged, but paragraph (c) becomes the new paragraph (b) of the definition.

Note: because of section 344A(5), an authorisation still cannot be issued unless a provision of an Act prevents renewal of the tenure, or the renewal application is refused in specific circumstances. Therefore, the rehabilitation authorisation would still not take effect until the mining claim or mining lease expires. This would be done via section 344A(4) which requires the authorisation to state the period for which the holder is authorised to enter the land.

Clause 27 (Amendment of s 344A (Authorised person to carry out rehabilitation activities))

Clause 14 amends clause 27 of the Bill which amends section 344A of the *Mineral Resources Act 1989*. This amendment changes subsection (3) of the section and inserts new subsections (3A) and (3B).

Clause 27 amended section 344A to enable a rehabilitation authorisation to be given to a person to authorise entry onto land to carry out activities under the environmental authority.

The intent was that the new rehabilitation authorisation in section 344A(3) would authorise entry to enable a person to carry out any activities necessary to achieve the rehabilitation outcome required by the environmental authority. This could include decommissioning

activities that need to be completed before, for example, rehabilitation vegetation can be established.

During consultation on the Bill, concerns were raised that the rehabilitation authorisation provisions, as drafted, may not cover these decommissioning activities as they are not expressly required by the environmental authority. Unlike rehabilitation activities, decommissioning activities are generally not a requirement of the environmental authority, but are required under the conditions of the tenure.

Consequently, section 344A(3A) is being inserted so that the rehabilitation authorisation authorises the activities which are required to surrender the environmental authority (i.e. the rehabilitation activities) and the activities required for the environmental management of the land under and environmental requiremend under the *Environmental Protection Act 1994*.

Note: 'environmental requirement' is defined by the *Environmental Protection Act 1994* to mean:

(a) an environmental authority; or
(b) a transitional environmental program; or
(c) a clean-up notice; or
(d) a site management plan; or
(e) a condition of an environmental authority that has ended or ceased to have effect, if the condition—
    (i) continues to apply after the authority has ended or ceased to have effect; and
    (ii) has not been complied with.

This also ensures that a planning permit would not be required for these activities. Under section 4A of the *Mineral Resources Act 1989*, a planning permit is not required for 'development authorised under this Act'. Under the original drafting, it was arguable that the rehabilitation authorisation only authorised the entry, not the activities themselves. It was never intended that a planning permit would be required in addition to the rehabilitation authorisation, as this would be an unnecessary regulatory burden. Consequently, this change in the drafting clarifies that these activities are authorised by the rehabilitation authorisation and are, therefore, 'development authorised under this Act' as required by section 4A of the *Mineral Resources Act 1989*.

However, the rehabilitation authorisation should not permit the removal of stockpiled minerals. This is because the inclusion of authority to remove minerals may mean that the grant would constitute the creation of a right to mine and, therefore, attract the right to negotiate under the *Native Title Act 1993* (Cwlth). The right to negotiate procedures would, therefore, need to be followed for the grant of the rehabilitation authorisation to be a valid future act. This is not the intent of the provision.

Therefore, subsection (3B) has been inserted into this section to make it clear that a rehabilitation authorisation under section 344A(3) cannot include activities that would give rise to the right to negotiate provisions under the *Native Title Act 1993* (Cwlth). If an operator wants to remove stockpiled mineral, this should be done via an approval under section 313 of the *Mineral Resources Act 1989* as it may trigger the right to negotiate. Note: the term 'right to negotiate provisions' is defined in the dictionary to the *Mineral Resources Act 1989* to be the right to negotiate process under the *Native Title Act 1993* (Cwlth), part 2, division 3, subdivision P.

In addition, section 344A(3) has been amended to tie the term 'environmental management of the land' to a relevant environmental requirement under the *Environmental Protection Act 1994*. This is similar to how environmental management is references in the existing section 391B of the *Mineral Resource Act 1989*.

Clause 27 (Amendment of s 344A (Authorised person to carry out rehabilitation activities))

Clause 15 also amends clause 27 of the Bill which amends section 344A of the *Mineral Resources Act 1989*. This amendment changes subsection (5) of section 344A as a consequence of the above amendment to section 344. The amendment to section 344 allows a rehabilitation authorisation under section 344A(3) to be issued prior to the mining claim or mining lease expiring. Consequently, a provision which prevents the renewal of tenure needs to be in the present tense, not the past tense and this amendment achieves that by removing the word 'prevented' and replacing it with 'prevents'.

Clause 27 (Amendment of s 344A (Authorised person to carry out rehabilitation activities))

Clause 16 also amends clause 27 of the Bill which amends section 344A of the *Mineral Resources Act 1989*. This amendment inserts new definitions of 'approval matter', 'EPA administering authority' and 'EPA surrender application' into subsection (7) of this section. These definitions are a consequence of the amendment to section 344A(3) above and simply refer back to the surrender process in the *Environmental Protection Act 1994*.

Clause 28 (Amendment of s 344B (Entering land to carry out rehabilitation activities))

Clause 17 amends clause 28 of the Bill which amends section 344B of the *Mineral Resources Act 1989*. Clause 28 was intended to have the effect that a notice of entry would be given every 6 months rather than every 10 business days.

Submissions to the Parliamentary Committee inquiry on the Bill raised issues with regards to the requirement for notices for entry to land to carry out rehabilitation to be provided every 6 months. Submitters contend this amendment will result in excessive administration, for instance, if rehabilitation takes 20 years, 40 entry notices would be required.

It is more appropriate that entry notice requirements align with the term of the rehabilitation authorisation, and that notice would only be required once for the term of the authorisation (i.e. the notice is valid for the whole term of the authorisation) and includes the ability to re-enter the land. Consequently, this amendment ensures that the notice need only be given once for the term of authorisation.

Note: it is unlikely that an authorisation would be granted for 20 years. They are intended to operate for a short time in limited circumstances where either a mine has been abandoned, or the mining claim or mining lease is unable to be renewed. If a further authorisation is required after the initial authorisation period, then a further authorisation could be issued, and the holder would be required to provide further notice to the landholders prior to entry.

Mining and Quarrying Safety and Health Act 1999

Clause 36 (Amendment of s 9 (Meaning of *mine*))

Clause 18 amends clause 36 of the Bill which amends section 9 of the *Mining and Quarrying Safety and Health Act 1999*. Clause 36 currently clarifies that the *Mining and Quarrying Safety and Health Act 1999* applies to a site for which a rehabilitation authorisation has been issued under section 344A(3) of the *Mineral Resources Act 1989*.

During consultation, concerns were raised that the current drafting does not allow mine operators to differentiate between operational areas for the rehabilitation authorisation and non-operational areas for the rehabilitation authorisation. This would mean that the operator would be responsible for safety across the entire area of the authorisation.

This is different from how the *Mining and Quarrying Safety and Health Act 1999* currently applies to other types of 'mine' as defined in section 9. For example, paragraph (1)(a) of the definition states that a mine is a place where operations are carried on within a mining tenure. Therefore, the safety and health definition of 'mine' does not include all of the land within the mining tenure, only the areas where 'operations' are being carried out. The term 'operations' is then defined in section 10 to include activities carried on principally for, or in connection with, exploring for, winning, or winning and treating, minerals or hard rock. The definition of 'operations' includes rehabilitating of a place after operations.

In addition, section 47(1)(a)(ii) of the *Mining and Quarrying Safety and Health Act 1999* requires the mine operator to inform the chief executive of the boundary of the mine (i.e. the 'mine' as defined by section 9). Section 47(5) requires the mine operator to inform the chief executive if the boundary of the mine changes. Consequently, this means that the mining operator can define the 'operational area' for its site, provided the definition of 'mine' refers to 'operations'.

As a result, this amendment removes the previous amendment to subsection (d) of the definition of 'mine' and instead adds a new subsection (g) which limits the definition of 'mine' to the parts of the authorisation area where operations are carried on.

After Clause 36

Clause 19 inserts a new clause 36A into the Bill which amends section 21 of the *Mining and Quarrying Safety and Health Act 1999*. Since under these amendments section 9 of the *Mining and Quarrying Safety and Health Act 1999* is now inserting a new subsection (g), this section is amended to update a cross-reference.