

CLAUSE NOTES
MINERAL RESOURCES DEVELOPMENT AMENDMENT BILL
2013

PART 1 - Preliminary

Clause 1 Short title and citation.

This clause provides the short title to be used when citing the Act for any legal purpose.

Clause 2 Commencement

The Act commences on receipt of Royal Assent.

Clause 3

The Principal Act is the *Mineral Resources Development Act 1995*.

Clause 4 Interpretation

Amends section 3 of the Principal Act by deleting certain definitions, amending others to clarify the intent and inserting additional definitions for the purpose of amendments made under this Bill. Additional definitions are detailed below and amend the Act by:

- inserting a definition for *annual report guidelines* that provides a reference to a new section (204A) where the Minister may issue guidelines for the submission of annual reports by companies undertaking exploratory activities;
- including *coal seam gas* as a defined *Category 2 mineral* to preclude any potential conflict of rights over a coal resource by ensuring a licence or lease holder has the rights to both the coal and any coal seam gas contained within the coal within a tenement, instead of having the possibility of coal being allocated to one licensee and coal seam gas (which if any did exist would exist within the coal seam) to another party;
- inserting a definition of *coal seam gas* for the purposes of the Act, previously this commodity has had no specific definition within the Act;

- inserting a definition of a *development plan* to mean an approved *plan of development* relating to a *geothermal production licence* that provides the necessary details of a defined resource and production facilities required for the production activities undertaken under a *geothermal production licence*;
- inserting a definition of *environment* to clarify requirements in the Act for the provision of information relating to the environment and the potential interaction with proposed activities or operations;
- inserting a definition of *field development plan* to mean an approved *plan of field development* in relation to a *petroleum production licence* that provides the necessary details of a defined petroleum resource and production facilities required for production activities undertaken under a *petroleum production licence*;
- inserting the following definitions that relate to geothermal activities:
 - *geothermal energy* has been defined as thermal energy that was contained within the earth, this definition is valid for the purposes and intent of the Act as it allows for the calculation of royalty based on the production of geothermal energy under a *production licence*, measured when that energy reaches the surface of the earth;
 - *geothermal production licence* is a new licence category to provide security of title for the production of *geothermal energy*, providing similar provisions to those within other Australian jurisdictions;
 - *geothermal reservoir* provides for a definition of the area defined by appropriate methods to allow for the transmission of *geothermal substances*, and hence the ability to provide a source of extractable *geothermal energy*;
 - *geothermal resource* defines what and how a particular amount of defined *geothermal energy* is to be reported in relation to a *geothermal production licence* in accordance with accepted industry standards;
- inserting a definition of *group prospecting licence* that allows for a new category of licence which will provide for groups to be allowed to prospect under one ‘umbrella’ licence in situations such as tourist group activities,

as opposed to the current legislative regime where each individual participant would be required to hold a prospecting licence;

- inserting a definition of *Mineral Exploration Code of Practice* as it relates to provisions within section 204 of the Act;
- inserting a definition of mining plan that specifies the content of a mining plan required to be provided prior to the Minister granting a mining lease under section 78A;
- inserting the following definitions that relate to the new licence categories for the production of petroleum and geothermal resources and related production activities:
 - *petroleum production licence* means a new category of licence in force under Part 3A that allows for the holder to have security of title over the area of a defined petroleum resource and allows for production activities to occur.
 - *Petroleum reservoir* means an area defined through exploratory activities that is capable of and is shown to contain a petroleum resource that is able to be extracted.
 - *Petroleum resource* means an amount of petroleum that has been determined. The determination of the amount of petroleum is to be undertaken in an approved manner, meaning one that is the current industry standard. “Approved” means approved by the Director.
 - *Plan of development* means a document provided by the applicant for a geothermal production licence that details the way in which proposed production activities associated with a defined *geothermal resource* will be undertaken. An appropriate *plan of development* is required before the Minister may grant an application for a production licence under section 67I of the Act.
 - *Plan of field development* means a document provided by the applicant for a petroleum production licence that details the way in which proposed production activities associated with a defined petroleum resource will be undertaken. An appropriate *plan of field development* is required before the Minister may grant an application for a production licence under section 67I of the Act.

- inserting the following definitions that relate to production activities for geothermal and petroleum resources.
 - *Produced* is defined so that it relates to geothermal energy in section 3A.
 - *Production activities* have been defined to relate to geothermal and petroleum production activities as defined further in section 3B.
 - *Production licence* means a new category of licence to allow the holder of a production licence to produce petroleum or geothermal resources.

Clause 5

Inserts two new sections in the Act after section 3 to define terms relating to production activities for geothermal and petroleum resources.

Section 3A defines the meanings of *obtaining minerals* and *produced* as they relate to geothermal energy within the Act. The definition of *obtaining minerals* is clarified to include producing geothermal energy. This is required to ensure that reference within the Act to *obtaining minerals* includes geothermal energy even though strictly speaking geothermal energy is not a mineral, other than for the purposes of the Act. By the definition of *produced*, geothermal energy is defined to be produced when the energy reaches the surface of the earth. This definition will give clarity to producers of geothermal energy and administrators of the Act as to the point of production for the purposes of royalty calculations.

Section 3B details the meanings defined for the purposes of the Act the terms *production* and *production activities* in relation to activities undertaken under petroleum (category 4 minerals) and geothermal (category 6 minerals) production licences.

Clause 6 Application of Act

Amends section 5 of the Act by inserting special exploration licence to clarify that this provision in the Act relating to exploration licences also applies to special exploration licences.

Clause 7 Ownership of minerals and substances

Amends section 6 of the Act by clarifying that geothermal substances and petroleum are minerals owned by the Crown, confirming the current situation. The Crown resumed ownership of petroleum in 1962, and geothermal substances in 1986.

Clarification of the current situation regarding ownership of category 3 minerals (stone) has been inserted as subsection (6).

PART 2 - Exploration licences

Clause 8 Application for exploration licence

Amends section 11 of the Act by:

- inserting the phrase “or category of minerals” after “mineral” in subsection (2)(b) to clarify the intent of the Act that the licence applies to a category of mineral not just a specific mineral.
- inserting the phrase “on activities under the licence sought” in subsections (2)(c)(i),(iv) and (v) to clarify the existing requirement that applications for exploration licences are to include details of proposed activities that relate specifically to the licence sought;
- omitting subsection (4) and replacing it with a new subsection (5) to clarify existing restrictions that relate to applications for licences over areas of land subject to an Exploration Release Area, as notified by the Director of Mines under section 161E. Currently the wording in the Act does not make it clear that these restrictions only apply to the mineral category of the previous licence;
- omitting the original subsection (5) and replacing it with a new subsection (4) to clarify that holders of a special exploration licence may submit an application for an exploration licence provided that it is over an area of land contained within the original special exploration licence, relates to the same mineral category to which the special exploration licence related and does not exceed the maximum size stipulated for exploration licences for that particular category of mineral as stipulated in the Act under section 21(1).

Clause 9 Priority of applications

Amends section 12 of the Act by substituting section 1A that clarifies the procedures around the priority of applications for licences received as a result of the notification of an exploration release area under section 161E.

Clause 10 Pending application

Amends section 13(2) of the Act by:

- inserting the phrase “or withdrawn” in paragraph (a) to clarify that an application is deemed to be lapsed for the purposes of the Act if that application is withdrawn within a 12 month period;
- inserting in paragraph (b)(ii) “in the opinion of the Director” to clarify that the reason for fixing a later date on which the application will lapse is, in the opinion of the Director, sufficient to do so. Applications will lapse after 12 months unless the Director fixes a later date.

Clause 11 Recommendation of application for exploration licence

Amends section 14 of the Act by omitting subsection (4), as this subsection relates to the granting of an application by the Minister not the recommendation of the Director, and these provisions have been inserted at section 17A. This change will only improve the readability of the Act.

Clause 12 Alteration of application, &c., before notice published

Inserts a new section 15A that provides for an applicant to be permitted to alter an application for an exploration licence, by notice to the Director prior to the advertising of the application.

Clause 13 Amendment of application after objection

Rewords section 16 of the Act to clarify the intent of this section that provides for alterations to applications to be made by an applicant as a result of an objection to the Mining Tribunal.

Clause 14 Granting application for exploration licence

A minor change that amends section 17 of the Act by inserting “in respect of which the licence is sought” after “land” to maintain consistency of language between section 15 and section 17 of the Act.

Clause 15 When application for licence may be granted or refused

Inserts a new section 17A to provide clear and unambiguous details relating to when the Minister may decide to either grant or refuse an application for an exploration licence. This section consists largely of the omitted part of section 14(4) (see clause 11 notes), with further detail added to provide clarity of the intention of the Act, specifically relating to the requirement of an applicant to demonstrate that they have sufficient technical and financial capabilities to undertake their proposed exploration program. Provisions have been also been included here to provide the Minister with the ability to take into consideration the applicant past performance, in activities undertaken under the Act, in determining an application.

Clause 16 Conditions of exploration licence

Amends section 18 of the Act by inserting subsection (2A) that provides the Minister the clear authority to impose specific conditions upon a licence that include conditions relating to a specific minimum expenditure that is to be spent on the exploration activities, and for the completion of accepted work programs in relation to the licence. Previously the Act was relatively vague in terms of the type of conditions that could be imposed on the licence; this amendment addresses this previous shortcoming.

Clause 17 Restriction on exploration in relation to private land

Substitutes section 19 of the Act to clarify the requirement that a holder of a licence must gain a landowners consent to explore within 100 metres of certain areas including buildings and water bodies, to maintain consistency with the requirements placed on other licence holders. There have been no changes made that affect the existing intended meaning of the relevant provisions.

Division 2 – Exploration licences

Clause 18 Exploration licence

Amends section 20 of the Act by revising the English expression and grammar of the existing wording to clarify the intent of this section. There have been no changes made that affect the existing meaning of the relevant provisions.

Clause 19 Area of land comprised in exploration licence

Amends section 21 of the Act by providing clarification of the maximum size of licence allowed for each category of mineral in subsection (1). The maximum size is set to provide a sufficient area for the exploration of specific minerals, whilst preventing one licensee from holding excessively large areas of land that can result in inadequate exploration coverage and would prevent other explorers from accessing the land.

Amends subsection (2) by clarifying the wording used that provides the Minister with the authority to grant a licence that may be different in shape and or area to that originally sought, this provides options for the Minister in granting a licence over a part of the application area when it is not desirable for the entire area to be a part of a licence.

Amends subsection (3) by clarifying the wording used so that it is consistent with the style of wording used in subsection (2). The existing provisions that a licence area cannot include an area that is already a licence for the same category of mineral have not been changed. Multiple licences for different mineral categories can be coexistent over the same area of land.

Clause 20 Exploration licence for small areas

Amends section 22 of the Act to clarify that licences for small areas are granted under section 17 and all provisions relating to exploration licences also apply to licences for small areas. Currently the wording in this section of the Act does not make this clear.

Clause 21 Authority of exploration licence

Amends section 23 of the Act by substituting and inserting words to clarify the intent of this section, that allows the licensee to provide the authority to nominated persons to undertake activities on the licence on behalf of the licensee and that the licence gives the licensee authority to explore provided that the work is undertaken in accordance with the conditions of the licence. This provides clarity to the original intent of the Act that a licence holder can engage third parties to undertake authorised works within a mineral tenement. There are no material changes to the existing provisions of the Act, including penalties made by this amendment.

Clause 22 Term of exploration licence

Amends section 24 of the Act to clarify the existing provisions of the Act as they relate to the term of exploration licences. All categories of mineral have a five year term of licence, except category 4 (petroleum) which has a term of licence determined by the Minister.

Clause 23 Extension of term of licence

Amends section 25 of the Act by varying some words used to clarify the intent of the Act regarding the process required relating to the making of an application for an extension of term of a licence and the grant or refusal of the application.

Clause 24 Minimum expenditure

Substitutes a new section 26 to provide clarity regarding the Ministers ability to set a minimum expenditure as a condition on a licence, as it relates to the exploration set out in the approved work program.

Clause 25 Annual report

Amends section 28 of the Act by clarifying the requirements of licence holders to provide a report, an *annual report*, of activities undertaken on a licence for each 12 month period of that licence. It is important that the Act provides the necessary mechanisms to ensure that licence holders supply the Director a detailed report of expenditure and activities undertaken to assess compliance with the conditions of the licence and to contribute to the overall knowledge of the geology of Tasmania via the submission of technical details and results of exploratory activities in required formats.

Clause 26 Returns

Amends the Act by inserting a new section 28A that provides details on the requirements for licence holders to supply the Director a *quarterly return* detailing activities undertaken on that licence for each quarter and an *annual return* for the 12 month period of the licence. Returns are an important component in the ongoing assessment of a licensee's activities and compliance with the conditions of the licence. This amendment clarifies the reporting requirements of licensees specifying the form and content of these records, and provides the power for audited returns to be requested to support claimed expenditure in relation to exploration activities. Currently the Act is not specific in the reporting requirements regarding returns.

Clause 27 Exploration without a licence

Amends the Act by rewording section 30 to clarify the original intent of the Act, that a person must hold a relevant mineral tenement to be permitted to explore an area of land for minerals or a category of mineral.

Clause 28 Application for transfer of exploration licence

Amends section 32 of the Act to clarify the existing requirements relating to the transfer of ownership of an exploration licence and specifically the requirements as they relate to any caveat lodged on that licence.

Clause 29 Approval of transfer of exploration licence

Amends section 33 of the Act to provide clarity regarding the ability of the Minister to place conditions on the transfer of a licence should there be a need to do so prior to approving the transfer.

Clause 30 Surrender of exploration licence

Amends section 35 of the Act to provide the Director with the ability to approve an application to surrender a licence with or without conditions and that the surrender will not come into effect until such time as the conditions are met. There is also additional clarity given to the date on which the surrender takes effect.

Clause 31 Term of consolidated exploration licence

Amends section 37 of the Act by clarifying the language relating to the term of a consolidated exploration licence, which is to be a period of five years from the date on which the application for the earliest licence was granted.

Part 2A – Special exploration licences

Clause 32 to Clause 34 - Special Exploration Licences

Amends Part 2 of the Act by changing special exploration licence headings from being a division within Part 2 - exploration licences, and creating a new *Part 2A* specifically for special exploration licences. A new *Division 1 – Applications* has also been inserted. The provision of a new Part for special exploration licences will deal with identified discrepancies and inconsistencies

identified in the administration of the Act regarding exploration licences and special exploration licences.

Clause 35 Application for special exploration licence

Amends section 38 of the Act by inserting a new subsection to clarify that a person cannot apply for an area of land to which a notice issued under section 161E relates (ie the exploration release area provisions). In addition amendments clarify that a person may not apply for a subsequent special exploration licence for the same category of mineral that was previously held by the applicant under a special exploration licence. This reiterates the 'special' nature of special exploration licences as opposed to exploration licences, in that they are designed to allow for exploration for unusual commodities or to be undertaken via novel exploration methodologies.

Clause 36 Priority and pending applications

Amends the Act by the insertion of two new sections (38A and 38B); section 38A provides details regarding the process to be followed in determining the priority of applications, should multiple applications for a special exploration licence for the same category of mineral and same area of land be received at the same time.

Section 38B describes and provides detail regarding an application, that it is a *pending application* until such time as it is approved, refused, lapses or is withdrawn.

Clause 37 and Clause 38

Amends section 39 and section 40 of the Act by clarifying some of the expression and grammar used in these sections. There has been no change to the current meaning of these sections as a result of these minor changes.

Clause 39 Alteration of application

Amends the Act by inserting sections 40A and 40B in Division 1.

Section 40A allows for an applicant to alter their application by notifying the Director of their intent to do so, before the application has been advertised. Section 40B provides for alterations to applications to be made by an applicant as a result of an objection to the Mining Tribunal. These provisions have been inserted to maintain consistency in the workings of the Act as it relates to licence applications.

Clause 40 Granting application for special exploration licence

Amends section 41 of the Act by clarifying some of the expression and grammar used in this section. There has been no change to the current meaning of this section as a result of these minor changes.

Clause 41 When Minister may grant application

Amends the Act by inserting a section 41A, this new section provides details of the information required by the Minister prior to making decisions regarding the granting or refusal of an application for a special exploration licence. The changes specifically relate to the requirement of an applicant to demonstrate that they have sufficient technical and financial capabilities to undertake their proposed exploration program. Provisions have been also been included here to provide the Minister with the ability to take into consideration the applicant past performance, in activities undertaken under the Act, in determining an application. This provision has been inserted to maintain consistency in the workings of the Act as it relates to licence applications.

Clause 42 Conditions of special exploration licence

Amends section 42 of the Act by providing the authority of the Minister to impose conditions on the licence including, but not limited to, a minimum expenditure requirement and a condition requiring the completion of a work program in relation to the licence.

Some minor changes have also been effected to improve the readability of this section and to clarify the intent of the Act.

Clause 43 Restriction on exploration on private land

Amends the Act by inserting section 42A, this new section clarifies the requirement that a holder of a licence must gain a landowners consent to explore within 100 metres of certain areas including buildings and water bodies, to maintain consistency with the requirements placed on other licence holders. There have been no changes made that affect the existing intended meaning of the relevant provisions.

Clause 44 Division 2 – Special exploration licences

Part 2A of the Act is amended by inserting a new heading – *Division 2 – Special exploration licences*

Clause 45 Special exploration licence

Amends the Act by inserting a new section 42B that provides the required details for the issuing of a special exploration licence, its form, content and that the licensee is required to pay rent for the area to which the licence relates. This section maintains consistency throughout the Act in relation to licences.

Clause 46 Authority of special exploration licence

This amendment substitutes and inserts sections that relate to the authority of a special exploration licence, the duties under a special exploration licence and the reporting and annual returns required under a special exploration licence to maintain consistency throughout the Act for all licences.

Specifically these amendments aim to amend section 43 of the Act by substituting and inserting words to clarify the intent of this section, that allows the licensee to provide the authority to nominated persons to undertake activities on the licence on behalf of the licensee and that the licence gives the licensee authority to explore provided that the work is undertaken in accordance with the conditions of the licence. This provides clarity to the original intent of the Act that a licence holder can engage third parties to undertake authorised works within a mineral tenement.

Amends the Act by inserting three new section, 43A, 43B and 43C that detail the duties under special exploration licence, including the requirements of the licensee in relation to the special exploration licence and the way in which work is to be carried out, and the reporting requirements that the licensee is to provide to the Director either in the required annual report format, or in quarterly and annual returns. This amendment provides consistency of reporting requirements throughout the Act for all licence types.

Clause 47 Term of special exploration licence

Amends section 44 of the Act to clarify the existing situation, that a special exploration licence term is 5 years, and that the Minister may extend the term provided that the total term of the licence does not exceed 10 years.

Clause 48 Extension of term of licence

Amends the Act by inserting section 44A. This new section details the requirements for applying for an extension of term of a special exploration licence and gives the Minister the authority to grant or refuse the application

and the reasons why the Minister can do so. There are rights of appeal provided to the applicant should the Minister decide to refuse the application for an extension of term. These provisions maintain consistency with other licence types in relation to extensions of term.

Clause 49 Area of land comprised in special exploration licence

Amends section 45 of the Act to clarify the original intent of the Act that a special exploration licence may exceed the maximum size allowable for exploration licences for any mineral category, and that they cannot coexist with other licences or leases for the same mineral or category of mineral as the special exploration licence. Provision has also been made in section 45 (1B) to allow a licence to be a different area or shape to the one originally sought, maintaining consistency in the Act in relation to land comprised in a licence.

Clause 50 Exploration without licence

Amends the Act by inserting a new section 45A providing consistency within the Act with other licences, relating to the requirement that a person must hold a relevant mineral tenement, or is authorised by the holder of the tenement to do so on their behalf, to be permitted to explore an area of land for minerals or a category of mineral.

Clause 51 Division 3 – Dealings with special exploration licences

Amends the Act by inserting a new heading for dealings with special exploration licences.

Clause 52

Amends the Act by inserting 3 new sections: 45B, 45C and 45D to improve consistency in the workings of the Act relating to (45B) - the ability of a licensee to vary the size of the licence or the Minister to vary the size or conditions of the licence; (45C) – the ability of a licensee to apply to the Minister to transfer the ownership of the tenement; and (45D) – the rights of the Minister to approve or refuse an application associated with the transfer of a licence.

Clause 53 Revocation of special exploration licence

Amends section 46 Act via the provision of minor changes to clarify the language used in this section to maintain consistency with the wording used

throughout the Act. The changes to this section do not alter the meaning of the existing provision.

Clause 54 Surrender of special exploration licence

Amends the Act by inserting a new section 46A that is consistent with other related provisions in the Act and provides the details and requirements for a licensee to be able to surrender a special exploration licence, or part of that licence, by applying to the Director of Mines. The Director can approve or refuse the application for surrender.

PART 3 – Retention Licences

Clause 55 Application for retention licence

Amends section 47 of the Act by clarifying the requirements for persons to apply for a retention licence. Only persons who hold an exploration licence or mining lease for the category of mineral sought in a retention licence may apply for that licence. The applicant must be able to show that there are sufficient quantities of mineral available to mine and that there are justifiable reasons for them not to immediately commence mining operations. It is not intended for holders of a production licence nor special exploration licence to be able to apply for a retention licence, these categories of licence are intended to cover very large areas of land which is not consistent with the intent of a retention licence to preserve small sub economic mineral deposits for the future benefit of the state and the licence holder.

Clause 56 Holder of exploration licence or lease may permit other person to apply for retention licence

Amend the Act by substituting a new section 48 to clarify the intent of the Act to permit a person other than the holder of a licence or lease to apply for a retention licence either alone or in conjunction with that licensee or lessee.

Clause 57 Pending application

Amends the Act by inserting section 49A. This new section improves the consistency in the workings of the Act relating to the status of a licence between the application and granting of a licence. A licence is termed *pending* until such time as either the Minister decides to grant or refuse the application

or the application is withdrawn or after the passage of a period of time, the application lapses.

Clause 58 Alteration of application after objection

Amends the Act by rewording section 52 to maintain consistency of language in the application of the Act as it relates to the alteration of a retention licence application should there be an objection lodged and upheld by the Mining Tribunal in relation to that application.

Clause 59 Granting application for retention licence

Amends section 53 of the Act to clarify the intent of this section. The changes do not affect the meaning of the existing provisions.

Clause 60 Restriction on exploration on private land

Amends section 54 of the Act to clarify the requirement that a holder of a licence must gain a landowners consent to explore within 100 metres of certain areas including buildings and water bodies, to maintain consistency with the requirements placed on other licence holders. There have been no changes made that affect the existing intended meaning of the relevant provisions.

Clause 61 Conditions of retention licence

Amends section 55 of the Act by clarifying the ability of the Minister to vary the conditions of a licence, including adding, rescinding, substituting or amending any conditions on a licence.

Clause 62 Retention licence

Amends the Act by clarifying section 56 relating to the issue of a licence by the Minister, and to maintain consistency in language used throughout the Act.

Clause 63 Area of land comprised in retention licence

Amends the Act by substituting a new section 57 to clarify the allowable size for a retention licence in relation to each of the available mineral category, with sizes available determined based on the probable maximum requirements for tenure over a resource for each mineral category. Further clarification is given regarding the original intent of the Act that if a retention

licence is issued, then any other licence for that mineral or category of mineral ceases to exist over the same area of land.

Clause 64 Authority of retention licence

Amends section 58 of the Act by substituting and inserting words to clarify the intent of this section, that allows the licensee to provide the authority to nominated persons to undertake activities on the licence on behalf of the licensee and that the licence gives the licensee authority to explore provided that the work is undertaken in accordance with the conditions of the licence. This provides clarity to the original intent of the Act that a licence holder can engage third parties to undertake authorised works within a mineral tenement. There are no material changes to the existing provisions of the Act, including penalties made by this amendment.

Clause 65 Term of retention licence

Amends section 59 of the Act by inserting words to clarify that a retention licence can only be in force for a period of up to 5 years, as determined by the Minister. The licence can be extended for periods not exceeding 5 years.

Clause 66 Annual reports and Returns

Amends the Act by inserting sections 60A and 60AB. These new sections provide clarity and consistency throughout the Act regarding the obligations of the licensee to submit annual reports and returns that are to include the information as outlined in these sections and or as specified by the Director.

Clause 67 Exploration without licence

Amends section 60C of the Act to clarify that any person must be the holder of a mineral tenement, or be authorised by the holder of the licence, to access an area of land for the purposes of exploring for a particular mineral category. This amendment maintains consistency relating to exploration without a licence throughout the Act.

Clause 68 Variation of retention licence

Amends section 61 of the Act by inserting the words “or a category of mineral” after “mineral” to clarify that under the Act the licence is relevant to the category of mineral, not just the specific target mineral.

Clause 69 Application for transfer of retention licence

Amends section 62 the Act to maintain consistency throughout the Act by clarifying the provisions that relate to caveats lodged on a licence that is subject to an application for transfer.

Clause 70 Approval of transfer of retention licence

Amends section 63 of the Act by clarifying existing wording of this section that provides the Minister with the authority to apply conditions on a licence transfer, and maintains consistency throughout the Act in relation to licence transfers.

Clause 71 Extension of term of retention licence

Amends section 64 of the Act by inserting a new paragraph to clarify the expiry date of a licence in the event of an application for extension of term being refused. This amendment does not provide a significant change to the current provisions within the Act.

Clause 72 Term of extended licence

Amends the Act by providing a minor wording change in section 65 clarifying the licence extension provisions.

Clause 73 Surrender of retention licence

Amends section 67 of the Act to provide the Director with the ability to approve an application to surrender a licence with or without conditions and that the surrender will not come into effect until such time as the conditions are met. There is also additional clarity given to the date on which the surrender takes effect. These provisions provide consistency throughout the Act relating to licence surrender.

Part 3A – Production licences

Clause 74

Amends the Act by inserting a new *Part 3A* that allows for the provision of title should there be commercially extractable heat resources (geothermal) or petroleum resources discovered in Tasmania. Due to the nature of these types of resources a *production licence* is needed that provides security of

title over the entire delineated resource, which may be large in areal extent, whilst the actual requirements for surface infrastructure may be very small. The new *production licence* provisions will allow for exploration and mining tenements for other mineral categories to coexist within the same area as the *production licence*, where they can do so without detriment to the proposed production facilities or defined resource. The provision to allow for the coexistence of multiple licences over a *production licence* is a major point of difference between a *production licence* and a *mining lease*, where no other activities are permitted within the area of a lease other than operations directly associated with the mining operation.

New provisions for production licences have been drafted to maintain consistency throughout the Act to the existing provisions that relate to dealings with other licences and leases as far as practicable, and are presented as three new divisions in the Bill. The new divisions are:

Division 1 – Applications: including details of requirements for the application and granting of a Production licence in sections 67A – 67K. These provisions maintain consistency as far as practicable with applicable sections that deal with the application process for other types of mineral tenement.

Division 2 – Production Licences: including details of requirements for the granting of an application for a mineral or category of mineral, issuing and extension of term of a production licence, and also provides details of the duties of a licensee in regard to that production licence including reporting duties (annual reports and returns) in sections 67L – 67U.

Section 67M provides the ability for the Minister to set the size of the required production licence to that which would be sufficient to allow the licence applicant to undertake proposed production activities, and to cover the extent of the defined resource thus ensuring security of title over that resource.

A requirement for licensees to provide a statutory declaration has been included for annual reports and returns within sections 67R (annual reports) and 67S (returns) to ensure that the content of these reports are accurate.

Division 3 – Dealings with licences details the requirements under a production licence for the transfer, revocation and surrender of a production licence in sections 67V – 67Z. These provisions have been created to maintain consistency with similar provisions for other licence types.

Part 4 – Mining leases

Clause 75 to Clause 78 Applications for a mining lease

Amendments made to the Act by clauses 75 to 78 provide minor wording changes that permit more clarity and consistency in sections 70, 71, 72 and 74 of the Act that relate to applications for a mining lease. No significant change to the meaning of the relevant provisions has been made by these amendments.

Clause 79 Alteration of application, &c., before notice given

Amends the Act by inserting section 74A. This new section provides the ability for an applicant for a mining lease to alter that application via a notice provided to the Director. This section provides consistency throughout the Act relating to the ability of any mineral tenement applicant to change the nature of the application prior to the required advertisement of the application.

Clause 80 to Clause 82 Recommendations of applications for a mining lease

These clauses amend the Act by substituting or omitting words in sections 75, 77 and 78, for the purposes of providing consistency of English expression in the Act. No significant change to the meaning of the relevant provisions has been made by these amendments.

Clause 83 When Minister may grant application

Amends the Act by inserting a new section 78A that provides clarity regarding the Ministers ability to grant or refuse a mining lease application. This section previously was located within section 75 of the Act that specifically deals with the recommendations made by the Director regarding applications, as such it has been moved to 78A where it more logically belongs. This section further clarifies the Ministers abilities in relation to the authority to grant or refuse an application, including taking the applicants past performance into account, and considering the net benefit to the State when determining an application for a lease. The provisions relating to the Minister being satisfied that a compensation agreement exists, between the lessee and the owner of the land, has been clarified to include that a compensation agreement exists if the Mining Tribunal has determined compensation under section 150 of the Act.

Clause 84 Mining Lease over private land

Amends section 79 of the Act to clarify the requirement that a holder of a lease must gain a landowners consent to undertake mining operations within 100 metres of certain areas including buildings and water bodies, to maintain consistency with the requirements placed on other tenement holders. There have been no changes made that affect the existing intended meaning of the relevant provisions.

Clause 85 Conditions of a Mining Lease

Amends the Act through minor amendments to section 80. These changes provide consistency of language and expression throughout the Act and have not altered the intended meaning of any specific section.

Clause 86 to Clause 87 Mining leases

Amends the Act through minor amendments to sections 81 and 83. These changes provide consistency of language and expression throughout the Act and have not altered the intended meaning of any specific section.

Clause 88 Authority of Mining Lease

Amends section 84 of the Act by clarifying the wording used in this section to maintain consistency throughout the Act, and to ensure it accurately reflects the intention of the section to enable authorised persons to conduct operations on behalf of the lessee and that works are to be conducted in accordance with prescribed lease conditions. There are no material changes to the existing provisions of the Act, including penalties made by this amendment.

Clause 89 Returns and Annual Reports

Amends the Act by repealing section 87 and substituting section 87 and 87A detailing requirements of lessees to provide the Director of Mines, in the required format, a quarterly return and also an annual report that provide details on operations under the lease. The reports are to be accompanied by a statutory declaration as to the accuracy of the statements made. These reporting obligations are important so that details of mineral production can be collected for the purposes of royalty calculation, and also to provide the Director of Mines with geological data gathered during the mining operations, and also with any other matter in relation to the lease that is required by the Director.

Clause 90 to Clause 92 Subleases

Amend the Act by insertion or omission within sections 89, 90 and 91 to provide consistency of language and expression throughout the Act and have not altered the intended meaning of any specific section.

Clause 93 to Clause 95 Transfer of leases

Amends sections 93, 94 and 95 of the Act by clarifying existing wording of these sections that provides the Minister with the authority to apply conditions on a lease transfer, and maintains consistency throughout the Act in relation to transfer of titles.

Clause 96 Surrender of mining lease

Amends section 100 of the Act to provide the Director with the ability to approve an application to surrender a lease with or without conditions and that the surrender will not come into effect until such time as the conditions are met. There is also additional clarity given to the date on which the surrender takes effect. These provisions provide consistency throughout the Act relating to surrender of titles.

Clause 97 Rent.

Amends section 101 of the Act by insertion of words to provide consistency of language and expression throughout the Act and has not altered the intended meaning of any this section.

Clause 98 Royalty

Amends section 102 of the Act by providing for the payment of royalties for the production of geothermal energy by inserting reference to geothermal production and geothermal energy where applicable. It is necessary to refer directly to geothermal energy within the royalty section of the Act as royalties for geothermal are to be calculated at the time of production of the energy, that being when the energy reaches the surface of the earth (i.e. at the well head) not when it is sold as is the case for other mineral categories. This is a consistent approach with other Australian jurisdictions and is a more practical solution to the calculation of royalty for the production of heat energy.

Clause 99 Agreement to deferral of royalty, Effect of, and revocation of, agreement to defer royalty, &c.

Amends the Act by inserting section 102AA and section 102AB. Section 102AA relates to the deferral of royalties, where a producer of a mineral who wishes to seek relief from the Crown for the payment of royalties must apply to the Treasurer for the deferral of this obligation. This section has been drafted in consultation with the Department of Treasury to ensure that any decisions made regarding royalty deferral include the Treasurer. The Treasurer has the authority to impose obligations on the applicant for deferral, regarding the repayment of the deferred royalty.

The provisions for the deferral of royalty allow for proponents to defer their obligations to the Crown in times of economic hardship where the royalty payment may impact upon their ability to continue to produce in the short term.

Section 102AB provides the authority for the Treasurer to revoke an agreement on the deferral of royalties under section 102AA, if the person to whom the deferral applies fails to fulfil a requirement of that deferral provision.

Clause 100 Recovery and collection of royalty

Amends section 103 of the Act to provide consistency of language and expression throughout the Act and has not altered the intended meaning of this section.

Clause 101 Lease for storage and other purposes

Amends section 106 of the Act by expanding provisions related to a lease to include the ability to grant a lease for other purposes including mine access, rehabilitation and other activities associated with a mining lease. The provision of these amendments will allow a lessee to secure a lease that provides unfettered access to an existing operation, via a defined route from a mining lease to the nearest public road.

**Part 5 Prospecting licences, Group Prospecting Licences and
Fossicking Areas**

Clause 102 to Clause 110 Group prospecting licence

Amends sections 107, 108, 110, 111, 112, 113 and 115 to provide for a group prospecting licence. Prior to these amendments if a tour group wished to undertake prospecting activities as a part of that tour, each person would be required to hold a prospecting licence, which was impractical. Current amendments provide the ability for a group prospecting licence to be issued, and that the holder of a group prospecting licence is to supervise the activities of the members of the prospecting group. The amendments also allow for a child to be an active participant in prospecting activities if accompanied by and under the supervision of the licence holder.

Clause 111 Fossicking areas

Amends section 116 of the Act by minor changes to the grammar and expression used in the existing provisions, and by inserting sub sections that clarify the Ministers ability to declare a fossicking area, and the authorisation of persons to undertake fossicking within a declared area.

Part 6 Drill Core and Cutting

Clause 112 to Clause 114

Amends the Act by clarifying the current provisions that relate to drill core in sections 117, 119 and 121. Mineral tenement holders are to provide information and samples relating to drill core and cuttings to the Director in a prescribed manner. Amendments include the provision for the Director to nominate an approved container or packaging for the delivery of the samples, this is an important amendment that will provide the consistency of sample delivery that is required at the MRT core storage facility.

Part 7 Claims and Appeals

Clause 115 Jurisdiction of Mining Tribunal

Amends section 128 of the Act by including the provision for the holder of a group prospecting licence, as well as holders of prospecting licences, to appeal against the holder of an exploration licence who is refusing access for prospecting within that exploration licence area, within the jurisdiction of the Mining Tribunal to maintain consistency in the Act with matters concerning prospecting activities. A new paragraph (ua) has also been inserted that

provides for the inclusion of royalty disputes to be within the jurisdiction of the Mining Tribunal.

Part 8 Compensation

Clause 116 Compensation for revocation due to public purpose

Amends section 149 of the Act to include provision for the revocation of a production licence for public purpose to maintain consistency with similar dealings attributed to leases.

Clause 117 Determination of compensation

Amends section 150 of the Act by clarifying that the Mining Tribunal has the authority to determine compensation payable as a rate or as an amount to be paid to a person. If no compensation agreement had been reached between the owner or occupier of the land over which a mineral tenement is active, and a tenement holder, and where activities or operations associated with the licence or lease have resulted in a compensable loss to that person the Tribunal can determine the compensation payable.

Part 10 Miscellaneous

Division 1 – Matters relating to licences, leases and mining.

Clause 118

Amends the Act by inserting 3 new sections, 161E, 161F, and 161G, before section 162.

Section 161E *Director to issue notice where licence ceases to apply to land* has been inserted to clarify the two month rule that applies to the inability of a person to apply for a mineral tenement for a specific category of mineral over an area of land that has been the subject of a mineral tenement for the same mineral category within the previous two months. The Act currently does not clearly articulate that the intent of the two month rule was to apply only to applications for a mineral category that was the same as that for which the previously held licence related.

Section 161F *Authorisation to conduct geological investigation* has been inserted to provide the authority to the Director to allow an applicant for a lease, permit or licence under the *Crown Lands Act 1976* or the *Forestry Act 1920* to undertake geological investigations, that would normally require the authority of a mineral tenement, to demonstrate that the proposed land use (eg a wind farm) will not adversely affect the State's ability to realise any potential mineral wealth from that area of land. In essence it will allow proponents of developments, within areas of State owned land, to test the ground beneath their proposed infrastructure or development to demonstrate that land does not contain any potentially commercially extractable mineral deposit and thus the development will not prevent the State from realising the benefits of such a deposit.

Section 161 G *Works approval under authorisation to conduct geological investigation* has been inserted to provide the authority to the Director to approve works for persons authorised under Section 161F to be conducted.

Clause 119

Amends the Act by inserting 2 new sections, 164A, and 164B, after section 164 in Division 1.

Section 164A provides the Minister with the authority to declare an area to be of *geological significance* and may thereby prevent any mineral exploration or mining activities from occurring within that area of land that may adversely affect the significant area. There are no alterations to the land tenure or management by any respective land management agency by the declaration of an area of geological significance.

Section 164B provides the Director with the authority to seek information relating to the sale of materials won as a result of construction activities. Currently a person engaged in an authorised construction activity may sell construction materials extracted from a development site without a mining lease. This section will provide the Director the ability to be informed of the details of the construction materials being placed on the market.

Clause 120 to Clause 121 Lodgement of caveats

Amend sections 183 and 184 of the Act by omitting or substituting words and phrases for the purposes of clarifying the intent of the Act and maintaining a consistency in English grammar and expression. The provision that required a caveat to provide an address within Tasmania for the service of notices and proceedings has been removed to better reflect the more universal nature of today's minerals industry. There are no other changes to the meaning of the existing provisions as a result of these clarifications.

Clause 122 Duration of caveat

Amends section 185 of the Act by substituting a new paragraph (c) that clarifies the effect and timeframes of a caveat on a licence that is subject to the application for a transfer.

Clause 123 Records kept by licensee

Amends section 187 of the Act by including provisions for the new production licence categories provided for in these amendments. Subsections (4) and (5) have been inserted to clarify the official records that are required to be kept by the licensee of a geothermal or petroleum production licence. These required details are equivalent to those that are currently required to be kept by lessees. The content of these records are required to be kept and also provided to the Director via the prescribed production licence annual report.

Clause 124 Records kept by lessee

Amends section 188 of the Act by omitting "Australian Institute of Mining and Metallurgy" and substituting "Australian Joint Ore Reserves Committee or another body that the Minister has nominated by notice in writing to the lessee" that provides mention of the updated methodology accepted by industry for use in the calculation and publication of ore reserves and resources. This amendment also provides for the Minister to nominate an alternative publication that in the future may be a more acceptable methodology, without the need to further alter the Act.

Clause 125 Accurate plans of mines to be made and kept

Amends the Act by inserting section 188A that details the responsibility of a lessee to prepare and maintain accurate mine plans. This provision is vital to ensure that accurate plans are made and maintained of existing mines for reasons including the monitoring of progress, resource evaluation, future exploration and mining activities and for mine safety reasons.

Clause 126 Copies of records and plans

Amends section 189 of the Act by substituting words used within this section to provide clarity of meaning and maintain a consistency of language and expression used throughout the Act. There is no change to the meaning of the existing provision as a result of these minor changes.

Clause 127 Confidentiality of records

Amends section 190 of the Act by substituting words used within this section to provide clarity of meaning and maintain a consistency of language and expression used throughout the Act.

A new subsection 3A has been inserted to provide the Director of Mines with the authority to provide the Director, within the meaning of the *Environmental Management and Pollution Control Act 1994*, and or relevant Commonwealth officers with information relating to the amount of minerals obtained under a lease for the purposes of allowing those nominated persons to exercise their statutory functions. This includes the use of such records by the Director of Environmental Control to determine and audit the appropriate level of control required for an operation, and will allow for the provision of geological information into Commonwealth data modelling exercises, resulting in a benefit to the Australian community.

Clause 128 Publication of records, returns and information

Amends section 191 of the Act by substituting words used within this section to provide clarity of meaning and maintain a consistency of language and expression used throughout the Act. There is no change to the meaning of the existing provision as a result of these changes.

Clause 129 Use of security deposit

Amends section 196 of the Act by inserting paragraphs (1) (ab) and (1) (ac) that provide the Director with the authority to use any part of a security deposit held in relation to a lease or licence to cover costs incurred by the Crown associated with the costs of depositing drill core, or failure to render safe a hazard that is a result of the mining or exploration activities.

Clause 130 Director may require purchaser to provide information

Amends the Act by inserting section 199A. This new section provides the Director with the authority to request information, from the purchaser of a product from the holder of a lease or licence, pertaining to that purchase including the nature, value, quantity and source of that product. This provides the Director with the ability to undertake a more detailed and robust auditing process for the purposes of royalty calculations.

Clause 131 Annual report guidelines

Amends the Act by inserting a new section 204A that provides the Minister with the ability to issue guidelines for the preparation of annual reports. This allows for the provision of geological information, gathered during the tenure of a mineral tenement, to the Director in a standardised format thereby reducing the potential for loss of important geological information.

Clause 132 Repeal of Act