



# Update

Energy & Resources

8 December 2011

## Resources legislation update

The Queensland Government has introduced the *Resources Legislation (Balance, Certainty and Efficiency) Amendment Bill 2011* into the Queensland Parliament.

The Bill proposes to add new provisions to the Mineral Resources Act (MRA) in respect to "Urban Restricted Areas" (URAs).

This follows the interim measure taken by the State Government on 16 August 2011 to gazette "notice of restricted area 384" which had the effect of freezing grants of new mining tenements in specified urban areas.

The new URA provisions place obligations on mining tenement holders to give notice to and obtain consent from local governments for carry out permitted activities.

Similar provisions are proposed in respect to petroleum and gas tenements.

The provisions (as they apply to mining tenements) are summarised below.

### What is an Urban Restricted Area?

The Bill allows the Minister to declare an area of land to be a URA.

The Minister's only requirement in determining whether to declare a URA is to consider "the public interest". No guidance is given in the Bill as to what land can be or should be declared a URA.

### What is the holder of a URA required to do?

Under the proposed legislation, the holder of a mining tenement within a declared URA must give a notice to the local government to seek its consent to carry out prescribed activities within the URA.

The mining tenement holder is only entitled to carry out authorised activities within the URA if it has either obtained consent from the local government or otherwise obtained consent from the Minister (following a Land Court hearing) if the local government fails or refuses to give consent.

### Do the URA provisions apply to pre-existing mining tenements?

The URA requirements will apply to a mining tenement whether or not it was granted before or after the URA was declared, except for the following mining tenements:

- a coal or oil shale mining lease for which a development plan is in effect and the development plan has not been amended after the URA is declared and a proposed later development plan is not approved after the URA is declared;
- a mining lease, other than a coal or oil shale mining lease, granted before the URA is declared if:
  - a plan of operations under the Environmental Protection Act is in effect for the relevant environmental authority for the lease; and -
  - the plan of operations is not amended or replaced after the URA is declared;
- a mining claim if the claim is not renewed after the URA is declared; or
- a relevant mining tenement to the extent it is for an industrial mineral.

### What notice must be given to the local government?

The notice to the local government must be in the prescribed form and must state:

- the activities proposed to be carried out on the restricted land;
- the location of the proposed activities and when the activities will be carried out;
- the reasons for carrying out the activities on the land;
- that entry to the land to carry out an authorised activity is not authorised unless the local Government consents in writing;



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- that any consent given by the owner or occupier must state the period of the consent and that consent may be on conditions and cannot be withdrawn; and

The notice must also be accompanied by:

- a copy of the prescribed tenement, and
- a copy of any relevant environmental authority for the tenement.

### What are the requirements for consent by the local government?

A consent given by the local government must state the period of time for which consent is given, cannot be withdrawn and may be given with conditions. The mining tenement holder must comply with those conditions.

### What if the local government does not consent?

If the local government does not give consent within 40 days of receipt of a notice, the holder may apply to the Land Court for it to consider the issue of carrying out the prescribed activity within the URA.

The Land Court must then make a recommendation to the Minister (including whether to provide for conditions on the activity);

The Minister must then decide whether to give consent, but only "if satisfied it is in the overall State interest" to do so.

### What is the progress of the bill?

The Queensland Parliament has referred the Bill to its Industry, Education, Training and Industrial Relations Committee for detailed consideration, with a reporting date of 19 March 2012. Any submissions on the draft Bill are required to be submitted by Friday 20 January 2012.

The Bill can be found by clicking [here](#).

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