COAL SEAM GAS: PETROLEUM OR MINERAL?

by

Denis Gately, Partner
Minter Ellison Lawyers, Brisbane.

The first legislative Act of the Borbidge Government in Queensland (Act No. 1 of 1996 *Petroleum Act)* was to ensure that coal seam gas (**CSG**) (sometimes called, coal bed methane) is treated as petroleum under the *Petroleum Act*, and not as a mineral under the *Mineral Resources Act.*

Exploration for CSG commenced in earnest in Queensland in 1976, when Houston Oil & Minerals of Australian Inc. undertook preliminary exploration in the Northern and Central Bowen Basin. This was followed up by BHP Petroleum Pty Ltd some 4 years later, largely directed at the degasification of its associates Leichhardt Colliery.

The exploration if it intensified in 1985, with the entry of Median Oil NL and Baraline Pty Ltd. Other investors to enter the play included MGC Resources Australia Pty Ltd (Mitsubishi), MIM Petroleum Exploration Pty Ltd, Pacific Oil & Gas Pty Ltd (CRA); more recently there has been increased foreign interest with the entry of Conoco Australia Pty Ltd, Tri-Star Petroleum Pty Ltd and Enron Australia Pty Ltd. In all, some $90M has been invested in the exploration effort, in reliance upon authorities to prospect issued under the *Petroleum Act.*

Since 1982, however, the legislative/policy setting (established by complementary amendments to the *Mining Act* and to the *Petroleum Act*) ensured that mineral tenements gave priority rights to exploration for an extraction of CSG, over petroleum tenements. In contrast, however, the day to day practice of the Department was to favour petroleum explorers. This was perhaps understandable given the level of investment from the petroleum industry.

That notwithstanding, at the direct administrative level, the priority of mineral tenements was maintained - and generally, authorities to prospect issued under the *Petroleum Act* excluded any areas within the boundaries of those authorities which were then the subject of existing mineral tenements.

Then, in April 1995, in a scarcely acknowledged amendment to the *Petroleum Act*, the connection between the *Petroleum Act* and the *Mineral Resources Act* was severed and the priority accorded by the legislative/policy setting in 1982 was effectively reversed, at least with respect to CSG.

Accordingly, there is now potential for overlapping and competing tenements, particularly in circumstances where the right to extract CSG can be specifically connected to coal mining operations, in circumstances contemplated by the *Mineral Resources Act*.

This opens up a new area of prospective co-operation between mineral explorers and petroleum explorers.