

2000 - A New Geolegal Paradigm

Denis Gately – Minter Ellison

ABSTRACT

The Queensland Government is poised to introduce various legislation that will impact directly on the petroleum industry, from the Water Allocation and Management Bill and Indigenous Cultural Heritage legislation to the proposed Petroleum and Gas Act.

The Water Allocation and Management Bill has been tabled in parliament, policy papers have been released on key areas of the proposed Petroleum and Gas Act and the draft model of the Indigenous Cultural Heritage legislation is likely to be developed into a Bill by the end of the year.

It is expected that regulation of water use for the petroleum industry will fall under the arm of the proposed Water Allocation and Management Act ('WAM Act'). An explorer will need a water permit under the WAM Act in order to take water from a watercourse, lake or spring (whether for exploration or other water supply).

However, despite one of the key objectives of the WAM Act that it cover all types of water allocation and management arrangements as far as practicable, the proposed Petroleum and Gas Act will regulate some aspects of water use. In particular, it will establish a procedure of authorisations to take underground water for exploration or production of petroleum or gas, monitor the volume of underground water taken and implement a code for the isolation of aquifers and regulation of wells.

The policy papers of the Department of Mines and Energy indicate that the proposed Petroleum and Gas Act will attempt to address the concerns of the modern petroleum explorer by expressly regulating the rights of tenure holders, the rights of landowners and issues associated with petroleum tenements, by providing greater security of tenure and by imposing a statutory duty on landowners to permit entry, subject to requisite notification but not an agreement as to compensation. The use of absolute and unfettered Ministerial discretion will, however, be curbed.

On a general level, the proposed legislation is likely to be more prescriptive than the existing regime. Specifically, the hallmark changes will include, altering the petroleum tenements available to protect the interests of explorers, in particular introducing a new Retention Lease, comprehensively regulating an Authority to Prospect and adopting a more commercial approach towards compensation determination and landowner notification.

Changes to the environmental regulation of the petroleum industry have been delayed awaiting finalisation of legislative amendments and administrative arrangements for the mining industry.