



Ashurst

Queensland land access and project approvals

Year in review 2025

March 2026

Outpacing change

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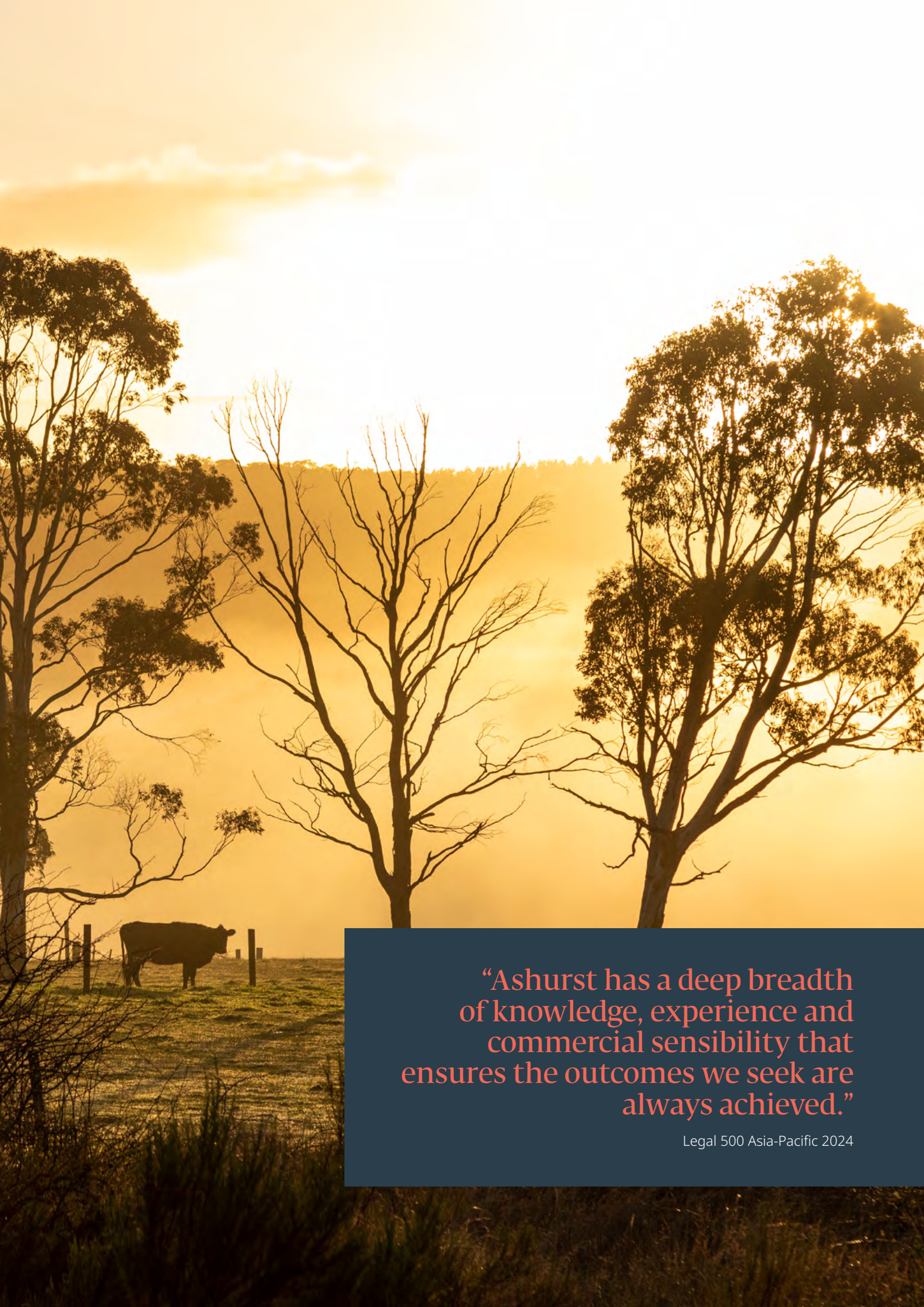
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“Ashurst has a deep breadth of knowledge, experience and commercial sensibility that ensures the outcomes we seek are always achieved.”

Legal 500 Asia-Pacific 2024

An aerial photograph of a large solar farm, showing rows of solar panels stretching across a landscape. The panels are dark blue with a grid pattern, and the rows are separated by dark paths or roads. The perspective is from a high angle, looking down at the panels.

Foreword

Welcome to the Queensland land access and project approvals 2025 year in review

In this publication, we highlight the key legislative, policy and judicial developments relating to land access and project approvals in Queensland.

Notably, in the past 12 months we have seen:

- dramatic changes to Queensland's planning framework for renewable energy projects, with new requirements for social impact assessments, community benefit agreements and public notification mandating a significantly different approval pathway for wind and solar developments;
- continued reform of the *Environmental Protection Act 1994* (Qld), including the proposed introduction of ERA codes as an alternative to environmental authorities, extended prosecution timeframes and amendments to the transitional PRCP provisions;
- the release of the Queensland Energy Roadmap 2025, signalling a departure from the previous Government's 2022 Energy and Jobs Plan, with a renewed focus on leveraging coal and gas assets alongside the transition to net-zero emissions by 2050;
- new regulations under the *Mineral Resources Act 1989* (Qld), including the separation of royalty provisions into a standalone regulation and the creation of a rent deferral framework for resource authority holders experiencing hardship;
- a number of significant Land Court decisions, including on greenhouse gas emissions mitigation, human rights considerations in mining lease applications, material changes in circumstances for compensation review and disclosure requirements; and
- the Queensland Supreme Court provide important guidance on the biosecurity management plan exemption for resource authority holders.



This year, we have also seen local governments move swiftly to introduce their own community benefit agreement policies in response to the new planning framework, while Coexistence Queensland released new guidance for landholders on the decommissioning of renewable energy projects.

We encourage you to reach out to us if you would like to discuss any aspect of this publication.

The articles in this publication are current as of 23 March 2026.



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Key developments in the land access space

Key insights

- The Queensland Government tabled three regulations related to the *Mineral Resources Act 1989* (Qld) and the *Mineral and Energy Resources (Common Provisions) Regulation 2016* (Qld) in the last 12 months. These updated regulations make a number of changes in Queensland's resources space, most notably moving provisions dealing with mining royalties into a separate regulation and establishing a rent deferral framework for resource authority holders who experience hardship as a result of exceptional circumstances.
- A new landholder guide for negotiating decommissioning arrangements for renewable energy projects was released in September 2025. The guide covers relevant decommissioning topics, emphasising key considerations for landholders when negotiating these arrangements.
- The Queensland Government released its Social Licence in Renewable Energy Toolkit, offering practical resources including templates, checklists and guidance to help communities and councils manage social impacts and strengthen local benefits.
- The Queensland Government released its Queensland Energy Roadmap 2025. The Roadmap is a departure from the previous Government's 2022 Energy and Jobs Plan. The Roadmap focuses on leveraging coal and gas assets while maintaining the goal of net-zero emissions by 2050.
- The Land Access Ombudsman received 49 dispute referrals in the 2024–2025 period, representing a slight increase compared to last year.

Changes to mining royalties and rent deferrals

The *Mineral Resources Regulation 2025 (Qld)* (MR Regulation) and *Mineral Resources (Royalty) Regulation 2025 (Qld)* (Royalty Regulation) commenced on 1 September 2025, replacing the previous 2013 regulations.

The MR Regulation is substantially similar to the 2013 regulation, but for one major amendment which saw the royalty provisions moved into the separate Royalty Regulation.

The Royalty Regulation prescribes the rates and methods for calculating royalties, the manner of making and lodging royalty returns and the time and manner of royalty assessment and payment. It makes no changes to the formulas for working out royalty liability or to royalty rates.

Other key amendments introduced by the MR Regulation include:

- References to the “Australian guidelines for estimating and reporting of inventory coal, coal resources and coal reserves” have been replaced with references to the JORC code, an internationally recognised code to measure coal reserves.
- The list of prescribed minerals and prescribed thresholds has been expanded in anticipation of an increase in critical minerals projects.
- Resource authority holders can now have a common reporting date for activity reports that are required annually. This will allow resource authority holders with a large number of exploration permits or mineral development licences to request one due date for their reports to reduce regulatory burden.

Further, the *Mineral and Energy Resources and Other Legislation Amendment Regulation 2025* (MEROLA Regulation) commenced in June 2025, establishing a rent deferral framework.

The framework is intended to support resource authority holders when their operations are impacted by circumstances beyond their control. The framework allows the Minister to declare a “hardship area”. The hardship area may capture all resource authorities of a certain type or only specific resource authorities affected by an exceptional circumstance. The framework is intended to provide only short-term relief to resource authority holders, as the Minister may defer all or part of the rent payable for up to one year at a time. Unless there is continuing hardship, rent must be paid within five years of the rent deferral period.

New guide for decommissioning renewable energy projects

Coexistence Queensland released a new [landholder guide for decommissioning renewable energy projects](#) in September 2025.

There is no specific legislative framework in Queensland governing the decommissioning of renewable energy projects. Decommissioning requirements and obligations are dealt with as part of the development assessment process under the *Planning Act 2016* (Qld). To receive a development approval, wind and solar developments must meet certain criteria set out in the relevant development codes. These codes contain clear performance outcomes for decommissioning.

Coexistence Queensland's new guide encourages landholders to seek independent legal advice when determining appropriate decommissioning arrangements. The guide covers key considerations including: the description of the project, its location on the land and lifetime; decommissioning and rehabilitation obligations; financial security; ongoing consultation, consent and review requirements; details of any infrastructure to be retained; decommissioning timing; and cost estimates.

New toolkit for social licence in renewable energy developments

The Queensland Government recently released the [Social Licence in Renewable Energy Toolkit](#), designed to help councils understand their roles in the development of new renewable energy projects and how to support a new project's social licence.

The tools have been designed to be considered by councils with respect to renewable energy projects for solar farms and wind farms assessable under the *Planning Act 2016* (Qld). The toolkit does not apply to coordinated projects declared under the *State Development and Public Works Organisation Act 1971* (Qld).

This toolkit offers practical resources, including templates, checklists and guidance. The tools will be released in a staged approach after further consultation with councils and will continue to evolve over time.

Currently, there are five main tools available:

- Checklist – Developing a guide to doing business in our region;
- Checklist – Key questions to ask the proponents about potential projects;
- Template – Renewable energy project pipeline register;
- Checklist – Assessment of proponent's social impact assessment; and
- Checklist – Developing community legacy benefits.

Withdrawal of mining lease objections process

In February 2025, we reported on the decision of the Attorney-General, Deb Frecklington MP, to withdraw the Queensland Law Reform Commission's terms of reference for review of mining lease objections, effective immediately. See our 25 February 2025 alert, "[Review of Queensland's mining lease objection process to be completed in mid-2025](#)".

The review focussed on the processes used to decide contested applications for mining leases under the *Mineral Resources Act 1989* (Qld) and associated environmental authorities under the *Environmental Protection Act 1994* (Qld).

The Chair of the Queensland Law Reform Commission, Fleur Kingham, commented that the Commission was disappointed that it could not finish its work on the review. The Attorney-General reiterated that the Resources Cabinet Committee would continue to consider policies and initiatives for the resources sector.

Release of Queensland Energy Roadmap 2025

The Queensland Government released the [Queensland Energy Roadmap 2025](#) on 10 October 2025. The Roadmap serves as a five-year plan for Queensland's Energy infrastructure with a focus on delivering affordable, reliable and sustainable energy. The Roadmap replaces the previous 2022 Energy and Jobs Plan. The focus areas of the Roadmap include coal, gas, storage, transmission, renewables and private sector and Government-owned corporations.

Key components of the Roadmap that stakeholders should be aware of include:

- a \$400 million Queensland Energy Investment Fund and Queensland Investment Corporation's Investor Gateway, together designed to drive private sector investment in new energy generation and firming projects;
- a \$1.6 billion Electricity Maintenance Guarantee to improve current energy assets;
- a clear decision-making framework for the operation of state-owned coal assets;
- a tender for 400MW of new gas-fired generation in Central Queensland;
- a consolidated management of future pumped hydro proposals;
- a \$10 million investment into community level batteries for greater solar storage to manage minimum system load;
- establishment of Regional Energy Hubs; and
- development of a new code of conduct for renewable energy developers to guide responsible behaviour.

For more information about the Roadmap, see our 12 November 2025 alert, "[Queensland Energy Roadmap 2025: A New Blueprint for Investment and Transition](#)".

Key trends in land access disputes

The Land Access Ombudsman's primary function is to investigate disputes involving alleged breaches of Conduct and Compensation Agreements and Make Good Agreements. According to the most recent [Annual Report](#) published by the Ombudsman, 49 dispute referrals were directed to the Ombudsman in 2024–2025. This represents a slight increase from the 47 dispute referrals received in 2023–2024.

Of the 49 dispute referrals, preliminary enquiries were commenced on four of the referrals with no investigative process following. This is a similar amount to that reported in 2023–2024. The Ombudsman did not undertake any full dispute resolution investigations in 2024–2025. Seven of the referrals related to the powers of the Ombudsman, and the remaining 42 were deemed to be out of the Ombudsman's jurisdiction. These out-of-jurisdiction claims were redirected to the appropriate bodies, most commonly to seek legal advice from the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development.

What to look out for in 2026

As we move further into 2026, keep an eye out for the following key developments that will continue to shape the land access space in Queensland over the coming year:

- changes to the existing coexistence framework and operation of the Land Access Ombudsman which may be introduced by the *Resources Safety and Health Queensland and Other Legislation Amendment Bill 2026*;
- the [Qld Government's response](#) to the Queensland Productivity Commission's final report, "[Opportunities to improve productivity of the construction industry](#)", released in January 2026. The report identifies restrictive land use regulation as one of the likely causes of poor productivity by the construction industry;
- potential activation of rent deferrals for resource projects via Ministerial "hardship area" declarations;
- potential incorporation of more robust decommissioning requirements into development approvals for renewable energy projects;
- delivery of Queensland Energy Roadmap milestones, including the rollout of the Electricity Maintenance Guarantee, Queensland Energy Investment Fund and a new developer code of conduct; and
- any changes in council attitudes toward renewable energy projects following release of the new Social Licence in Renewable Energy Toolkit.

Authors: *Leanne Mahly, Lawyer; Libby McKillop, Counsel*



New Community Benefit System means additional challenges for renewables in Queensland

Key insights

- Queensland changed its planning rules for renewable energy projects in July 2025.
- Proponents of certain wind, solar and battery developments must now complete social impact assessments and reach community benefit agreements with local councils before they can make a development application for their project.



New requirements for renewables development applications in Queensland

Since the 2024 Queensland election, the new Government has focused on Queensland's energy mix and its role in the energy transition. One concern, as noted in our 19 February 2025 alert, "[Coexistence between renewable and resource projects in Queensland remains a key issue](#)", was the relationship between renewables proponents and local communities. Many people within these communities oppose renewable developments near their homes and businesses. This created conflict at local council level. Councils struggled to balance their constituents' interests with the broader public interest in renewables.

In response to these concerns, the Government passed the [Planning \(Social Impact and Community Benefit\) and Other Legislation Amendment Act 2025](#) (Qld) in June 2025. This Act amended the [Planning Act 2016](#) (Qld) to require proponents for prescribed developments to conduct a Social Impact Assessment (SIA) and enter into a Community Benefit Agreement (CBA) with the relevant local council **before** they lodge their development application.

Subsequent amendments to the [Planning Regulation 2017](#) (Qld) confirmed which developments must undertake the SIA/CBA process. Three types of renewable energy projects must comply:

- solar farms that have a maximum instantaneous electricity output of 1 MW or more;
- wind farms; and
- battery storage facilities that have a maximum instantaneous electricity output of 50 MW or more.

Social Impact Assessment process requires proponents to investigate social impact upfront

Proponents must prepare a report on the development's potential impact on the social environment of a community in the locality of the development. Section 106R of the Planning Act defines this to include impacts on the:

- physical or mental wellbeing of members of the community;
- livelihood of members of the community;
- values of the community; and
- provision of services to the community, including education, emergency and health services.

Impacts need not be negative. Section 106S states that impacts may be positive or negative, direct or indirect and include the cumulative impact of the development and other uses.

The Government has published a [statutory guideline](#) with mandatory requirements for the SIA process. It has also published [non-statutory supplementary material](#) with additional guidance.

Proponents must enter community benefit agreements before lodging development applications

Section 51(4) of the Planning Act states that proponents who are required to complete SIA must also enter into CBAs with relevant local governments before they apply for development approval or must obtain a notice from the chief executive stating that a CBA is not required.

CBAs must provide benefits to the community in the locality of the development. The Planning Act does not prescribe what benefits a CBA must contain. However, it provides the following examples:

- providing or contributing towards infrastructure or another thing for the community, such as building sporting facilities or community libraries, or providing training programs; and
- making direct financial contributions to the community.

If the parties are unable to reach agreement, they can jointly ask the chief executive to refer them to mediation under section 106ZB of the Planning Act.

The Government has published [guidance on preparing community benefit agreements](#).

Some local governments have also begun to publish policies setting out their positions on community benefit agreements – see, for example, policies from [Isaac Regional Council](#), [Gladstone Regional Council](#), [Southern Downs Regional Council](#) and [Western Downs Regional Council](#). These policies tend to prescribe minimum financial contributions for each type of project based on the installed capacity of the projects:

- \$850 per megawatt per annum for solar farm developments;
- \$1,050 per megawatt per annum for wind farm developments;
- \$150 per megawatt hour per annum for standalone battery storage facilities; and
- \$850 per megawatt hour per annum for other energy storage facilities (such as hydroelectricity).

For the most part, these rates match the rates given in the [NSW Department of Planning's Benefit-Sharing Guideline](#).

In certain cases, compliance with a CBA can be included as a condition on a development approval under section 65AA of the Planning Act.



Additional changes increase public scrutiny on renewables developments

The Government has amended the Planning Regulation to make solar farms, wind farms and battery storage facilities (even ones which do not meet the above criteria) impact assessable, with the chief executive acting as the assessment manager. Impact assessable development, among other things, is required to go through the public notification process allowing members of the community to make submissions on the proposed development.

The Government has also made amendments to the [Development Assessment Rules](#) under the Planning Act to specify additional requirements for publicly notifying developments requiring SIA.

Together, these amendments increase the likelihood of members of the community making submissions on development applications for these renewables projects.

Key takeaways

The intention of these amendments is to front-load requirements for renewables proponents to engage with the local community and obtain their social licence to construct and operate.

However, these amendments are likely to increase upfront costs and lead times for renewables projects. When considering the financial viability of new renewable energy projects, proponents will need to factor in not only the costs of the SIA/CBA process, but also the potential financial contributions to be made under a CBA.

On a broader level, these amendments form part of the Government's general policy retreat from new renewables development, evidenced in its [Queensland Energy Roadmap 2025](#). One recent example was the Deputy Premier's May 2025 decision to exercise his ministerial call-in powers under the Planning Act to [refuse the development application](#) for the Moonlight Range Wind Farm. Proponents and investors should continue to monitor the Government's continuing policy development on this issue.

Authors: Paul Wilson, Partner, Martin Doyle and Cooper Jones



Queensland environmental reform continues

Key insights

- Another round of proposed amendments to the *Environmental Protection Act 1994* (Qld) were introduced into Queensland Parliament in November 2025. This follows ongoing reforms to the Act during 2023 and 2024.
- The latest round of proposed amendments largely reflect changes flagged during consultation in early 2025, though some proposals have since been abandoned.
- Key amendments include the introduction of “ERA codes” as an alternative to environmental authorities for low-risk activities, increased time limitations for prosecuting summary offences, and amendments to the transitional PRCP provisions.
- The Health, Environment and Innovation Committee has recommended that the Bill be passed, and it is likely to receive Assent sometime in the first half of 2026.

Reform of the *Environmental Protection Act 1994* (Qld) (EP Act) continued in 2025, with the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Bill 2025* (Bill) introduced into Queensland Parliament on 20 November 2025.

The Bill proposes amendments to a range of environmental legislation in Queensland, including the EP Act. According to the explanatory notes, the Bill's primary policy objective "is to improve administrative efficiency and ensure the regulatory frameworks within Queensland's environmental legislation remain contemporary, effective and responsive".

The Bill's introduction followed targeted government review and consultation during 2025, including the consultation paper [Realising efficiencies and streamlining in the Environmental Protection Act 1994 and other portfolio amendments](#) (Consultation Paper), and the consultation report [Consultation outcomes for proposed amendments to the Environmental Protection Act 1994 and other portfolio legislation](#) (Consultation Report).

We wrote about these reforms in our 25 February 2025 alert, "[A big year for Queensland environmental law reform but Federal EPBC Act reforms stall](#)", and our 18 December 2023 alert, "[Potentially significant changes to Queensland environmental legislation released for public consultation](#)".

In this article, we discuss some of the key proposed amendments, as well as key proposals that were abandoned following consultation.

Key proposed amendments to the EP Act

ERA codes as an alternative to environmental authorities

Currently, an environmental authority (EA) is required to carry out an "environmentally relevant activity" (ERA).

The Bill proposes the introduction of new "ERA codes" for certain ERAs that have well known environmental risks, and where practices to avoid the risks are "well established, understood by industry and able to be routinely implemented". Under the amendments, an EA would not be required for these ERAs, with proponents instead registering and operating under an ERA code.

The Consultation Paper estimated that more than 30% of EAs may be suitable for conversion to the proposed mandatory code regime.

In response to consultation feedback, the Bill proposes an "opt-in" or "hybrid" approach that would:

- allow existing operators to elect to remain subject to an existing EA rather than transition to a new ERA code; and
- give operators the option to apply for a site-specific EA where they cannot comply with a new ERA code.

While proposed ERA codes are yet to be developed, the Consultation Paper suggested that small-scale mining activities may be transitioned first, with ERAs currently subject to an ERA standard to follow.

Increased time limitations for prosecuting summary offences

The Bill also proposes to extend the timeframe within which the Department of the Environment, Tourism, Science and Innovation can commence a prosecution under the EP Act.

Most environmental prosecutions under the EP Act proceed "summarily", in the Magistrates Court. Current provisions require such proceedings to commence:

- within one year after the commission of the offence; or
- within one year after the offence comes to the complainant's knowledge, but within two years after the commission of the offence.

Under the proposed amendments:

- the timeframe for commencing proceedings would be extended to three years for key offences under the Act (including contravening an EA condition, and unlawfully causing serious or material environmental harm), and two years for other offences; and
- the timeframe linked to when the offence "comes to the complainant's knowledge" would be removed.

Where an incident or non-compliance has occurred, this has the potential to add a year (or more) of uncertainty regarding potential proceedings. However, it is still an improvement on the original proposal, which suggested a five-year period to commence summary proceedings.

Amendments to progressive rehabilitation and closure plan (PRCP) provisions

The Bill also contains a number of proposed amendments to EP Act provisions relating to PRCPs assessment and approval processes.

Removal of public interest evaluation process

First, the Bill would remove the requirement for a “public interest evaluation” for proposed PRCPs.

According to the Consultation Report, “the administrative process for public interest evaluations does not deliver”, with the process considered “effectively redundant”. However, factors that are currently relevant to a public interest evaluation will remain in the Act, as “public interest considerations” relevant to non-use management areas in a proposed PRCP schedule.

Historical context to be relevant for non-use management areas

The EP Act currently requires a proposed PRCP to, among other things, state the proposed methodology for achieving best practice management of each proposed non-use management area. This can present a potential challenge when, for example, outcomes for non-use management areas are transitioned from existing land outcome documents.

Amendments proposed in the Bill will expressly permit the Department to consider historical context and constraints, and the extent to which it is practicable to apply current standards, when assessing a transitional PRCP. The Consultation Report states that “the intent is to ensure that approvals that existed prior to the introduction of the PRCP framework are not fettered, and a PRCP schedule to progressively rehabilitate can consider best practice management in the context of historical considerations”.

Amendment of the section 431A offence provision

Currently, the holder of an EA for a site-specific mining activity must not carry out, or allow the carrying out of, activities under the EA – including rehabilitation and environmental management works – unless there is an approved PRCP schedule for the EA.

The Consultation Report states that the Bill proposes to replace section 431A, to ensure that “operators who have fallen out of the PRCP framework are not prevented from conducting activities such as rehabilitation and maintenance”. The new section 431A will require the holder of an EA for site specific mining activities to also hold a PRCP schedule, with a penalty for contravention of that requirement.

While it is true that this amendment will remove the express prohibition on carrying out mining activities – including rehabilitation – without an approved PRCP schedule, the potential exposure for operators that have fallen out of the PRCP framework remains. Further, while under the current version of section 431A an operator could avoid committing an offence by discontinuing its activities, the proposed amendments will create a contravention where a PRCP schedule is not in place, whether mining activities continue or not.

In this context, it is not clear how the amendment achieves its aim of ensuring such operators “are not prevented” from conducting rehabilitation.

Clarifications regarding lapsed and refused PRCP applications

For operators still working their way through the transitional PRCP process, the proposed amendments also provide some welcome clarifications. Under the proposed amendments:

- if an application for approval of a PRCP schedule is refused or lapses, the EA holder can resubmit the PRCP for assessment by the Department (and a PRCP can be resubmitted more than once);
- the section 431A offence will not apply while a resubmitted application is being assessed, or for 60 business days after the assessment ends without the PRCP schedule being approved; and
- section 431A will not apply for 60 business days after commencement, allowing a period for resubmission before the offence provision applies.

This provides some additional certainty that refusal of a PRCP schedule application will not immediately expose EA holders to a section 431A offence.

Abandoned proposals

Several proposals outlined in the Consultation Paper were abandoned, including:

- Mandatory general administrative provisions - general administrative conditions that would be applied across all environmental authorities. This proposal received limited support, with most stakeholders indicating the proposal would not improve administrative efficiency.
- Codifying best practice environmental management principles - a mechanism allowing the chief executive to make codes of practice specifying what constitutes 'best practice environmental management' for specific activities or types of activities. It was envisaged that this would be used to guide the government's environmental assessments, providing greater certainty for businesses on the likely requirements to gain an EA.

The proposal did not receive broad support. Stakeholders did not consider that it would increase outcome certainty, and several submitted that codification could pose significant challenges as the principles of 'best practice' evolved with contemporary standards. Instead, the Consultation Report indicated that the government would consider administrative mechanisms, such as the development of additional guidance material, to provide further clarity.

What's next?

The Health, Environment and Innovation Committee tabled its report on 30 January 2026, recommending that the Bill be passed. It concluded that the measures proposed in the Bill are proportionate and sensible and reduce regulatory burden while still providing appropriate safeguards for the environment. Accordingly, we expect the Bill will soon receive Assent.

Author: *Brigid Horneman-Wren, Lawyer and Paul Wilson, Partner*

Supreme Court provides guidance on landholder biosecurity management plan exemption for resources sector



Key insights

- In [Lang v Westside Corporation Pty Ltd \[2024\] QSC 190](#), the Queensland Supreme Court held that a petroleum lease holder did not have to comply with the underlying landholder's biosecurity management plan because of an exemption in the *Biosecurity Regulation 2016* (Qld).
- Under section 94H(2)(c) of the *Biosecurity Regulation 2016* (Qld), a person entering, present at or leaving a management area for a biosecurity management plan does not have to comply with the plan if they are "required or permitted, under an Act, to enter the management area".
- The Supreme Court held that the Petroleum Act conferred a right of entry to the petroleum lease land, triggering the exemption in section 92H(2)(c), and the resource authority holder did not have to comply with the landholders' biosecurity management plan.
- However, the Court noted that resource entities are still required to comply with the "general biosecurity obligation" under section 23 of the *Biosecurity Act 2014* (Qld).

Landholders argued resource authority holder should comply with biosecurity management plan

The landholders owned three rural properties within the area of a petroleum lease granted under the *Petroleum Act 1923* (Qld). Westside Corporation, as the relevant operator of the petroleum lease, was authorised to carry out activities on the landholders' properties.

The landholders were a registered biosecurity entity under section 141 of the *Biosecurity Act 2014* (Qld), because they kept cattle on their properties. Under section 94G of the Biosecurity Regulation, they had made a biosecurity management plan for their properties and had communicated the contents and provided a copy of the plan to Westside Corporation.

The landholders argued that Westside Corporation should be required to comply with their biosecurity management plan in order to enter and work on their land. Westside Corporation argued that it did not need to, because it was permitted to enter the relevant area "under an Act". Namely, under the Petroleum Act.

How did the Court interpret the exemption?

The Court firstly considered the meaning of the phrase "under an Act". This phrase was considered by the Court of Appeal in [Council of the Shire of Sarina v Dalrymple Bay Coal Terminal Pty Ltd \[2001\] QCA 146](#), which construed the phrase as "any permit granted pursuant to a power conferred by an Act giving to the grantee a right of occupancy". Adopting this reasoning, the Court concluded that "A person will be 'permitted, under an Act, to enter' an area of land where an Act is the source of the power under which the person's right to enter is conferred."

Westside Corporation contended it was "permitted, under an Act" to enter the area of the landholders' biosecurity management plan as it held a right to enter the area under its petroleum lease, and the source of power for that right was the Petroleum Act. The question for the Court was therefore the proper construction of the relevant sections of the Petroleum Act and associated legislation governing the exercise of rights under the petroleum lease.

The Court summarised the legislative scheme and then agreed with Westside Corporation's submission that it was "permitted, under an Act, to enter" the relevant land. It held that:

- the Petroleum Act was the source of power of the petroleum lease, and conferred on the holder(s) the right to enter the land the subject of the lease;
- the exercise of this right of entry was regulated, among other things, by the Petroleum Act (as amended), and the *Mineral and Energy Resources (Common Provisions) Act 2014* (Qld) and the *Mineral and Energy Resources (Common Provisions) Regulation 2016* (Qld). They introduced requirements, such as giving an entry notice or entering into a conduct and compensation agreement, as preconditions upon the exercise of the right of entry conferred "under the Act";
- however, the fact that the exercise of the right of entry was conditional on certain things did not "detract from or negate the conclusion that Westside Corporation is permitted, under an Act, to enter the relevant land".

As a result of the above construction, the Court held that Westside Corporation was not required by section 94H of the Biosecurity Regulation to comply with the landholders' biosecurity management plan when entering and working on the relevant land.

Ongoing requirement to comply with the "general biosecurity obligation"

Nonetheless, the Court emphasised that entities such as Westside Corporation were still required to comply with the "general biosecurity obligation" arising under section 23 of the Biosecurity Act. That obligation requires entities dealing with biosecurity matters or carriers, or carrying out an activity, to "take all reasonable and practical measures to prevent or minimise" biosecurity risks if they know or ought reasonably to know that the biosecurity matter, carrier or activity poses or is likely to pose a biosecurity risk.

In this case, Westside Corporation remained subject to this general obligation despite the exemption from complying with the landholders' biosecurity management plan.

However, we are aware that in some instances, parties may negotiate provisions within conduct and compensation agreements that otherwise contractually bind resource entities to comply with a landholder's biosecurity management plan.

Authors: *Brigid Horneman-Wren, Lawyer; Libby McKillop, Counsel*



Land Court clarifies material changes in circumstances for mining lease



Key insights

- The Land Court in [Fairhill Coking Coal Pty Ltd v Comiskey & Anor \(No 2\) \[2025\] QLC 9](#) clarified the threshold for establishing a “material change in circumstances for the mining lease” under section 283B of the *Mineral Resources Act 1989* (Qld) (MRA), dismissing an application that sought to trigger a review of previously agreed compensation.
- The Land Court held that late compensation payments, an email containing an “Agreed Process” to renegotiate, and a [Supreme Court decision](#) did not amount to a “material change in circumstances for a mining lease”. The Court held that section 283B is directed to changes with operational effect (for example, changed mining methods that alter impacts), not mere “on paper” changes or shifts in land value over time.
- Even where a breach of a lease condition occurs, it will not automatically qualify as a material change. The question will turn on operational effects and significance to the compensation framework.

Landholder sought to trigger a review of compensation under section 283B MRA

The miner held a mining lease over land owned by the landowners, with a conduct and compensation agreement (CCA) dated 27 August 2020 requiring staged payments on specified dates. The miner missed the payment dates, and the parties reached an agreement by email on 3 April 2023 (the “Agreed Process”) which contemplated either payment by 28 April 2023 or, failing that, a structured process to renegotiate the compensation payable supported by independent valuations and mediation.

The miner ultimately paid the outstanding \$7.45 million plus interest, and both parties undertook valuations and mediation, but did not reach a new agreement.

The landowners then sought declarations in the Supreme Court. However, the Supreme Court rejected any suggestion that the original compensation agreement had been undone and pointed to section 283B as the proper pathway for review.

Competing applications were then filed in the Land Court. The miner sought a preliminary determination that the pleaded particulars did not amount to a material change of circumstances. The landowners sought declarations that the miner was bound by a duty to cooperate to enable the Land Court to review compensation and was precluded from contending otherwise.

The Court dismissed the application

Section 283B permits the Land Court to review compensation only if there has been a material change in circumstances for the mining lease since the original agreement or determination.

The Land Court reaffirmed that section 283B involves a two stage test: that the circumstances have changed, and that the change is material (adopting the test in *Nothdurft & Anor v QGC Pty Ltd & Ors* (2017) 38 QLCR 91). Further, it held that a material change is generally concerned with real world operational changes relevant to the impacts for which compensation was originally assessed.

The Land Court held that movements in market value, or changes that exist only “on paper”, generally do not qualify, whereas operational changes such as closing a road, unexpected noise exceedances or water impacts that burden the landholder are more likely to do so.

The landholders identified four alleged material changes:

- breach of a lease condition by failing to pay on time;
- the “Agreed Process” to renegotiate compensation;
- the Supreme Court’s decision and a purported duty to cooperate; and
- a substantial increase in losses since the compensation was agreed, including changes in land value.

The miner argued that section 283B(1)(b) is directed to operational changes affecting land or operations, not breaches of payment timing or market movements, and that the Agreed Process was a separate contractual step and not a material change within section 283B(1)(b).


The Land Court held that:

- late payment, though serious and potentially a breach of a lease condition, did not amount to a material change for the mining lease in this case, and that the parties already contemplated non-compliance when the CCA was negotiated by including a dispute resolution mechanism in the agreement;
- the “Agreed Process” was a separate contractual process and not itself a material change in circumstances for the mining lease;
- the Supreme Court’s remarks did not compel the Land Court to conclude that there had been a material change in circumstances for the mining lease (see below); and
- a reframing of losses via increased land value between agreement and payment was insufficient; the payment of interest addressed delay, and ordinary market movements do not satisfy section 283B(1)(b).

The Land Court accepted that it should give effect to the Supreme Court’s reasons where appropriate and recognised the Supreme Court’s observations that the parties contemplated “cooperation” to facilitate a Land Court review of compensation if they could not agree. However, it held that those remarks did not bind it to find a material change, did not oblige the miner to refrain from pressing its application, and that “cooperate” could not be equated with “capitulate.”

The Land Court dismissed the landowners’ general application and held that the pleaded particulars did not identify a material change in circumstances for the mining lease under section 283B(1)(b), leaving the original compensation in place and inviting short submissions on orders.

Authors: *Roxane Read, Senior Associate and Libby McKillop, Counsel*

A close-up, artistic photograph of the scales of justice, showing the metal chains and pans against a warm, wooden background. The scales are slightly out of focus, creating a sense of depth and gravity.

Land Court recommends mine expansion not be approved due to inadequate GHG emission mitigation measures

Key insights

- In [Re Sungela Pty Ltd & Anor \[2025\] QLC 5](#), the Land Court recommended the Minister not approve an application for a mining lease related to the extension of a Central Bowen Basin thermal coal mine unless and until the applicants show “real and significant progress” towards mitigating GHG emissions.
- The Court also held that the mine’s increased GHG emissions would engage, and limit, the right to life and right to protection of children under the *Human Rights Act 2019* (Qld), and that those limitations could only be justified on a fuller evidentiary record showing credible mitigation.



Third parties object to extension of Central Bowen Basin mine

Sungela Pty Ltd and Bowen Investment (Australia) Pty Ltd (the miners) applied for a new mining lease to extend mining operations at the Ensham thermal coal mine in the Central Bowen Basin for a further 20 years.

Several parties, including Lock the Gate Alliance, lodged objections to the grant of the mining lease. Their objections covered a range of issues, including surface and groundwater impacts and effects on endangered and threatened species. President Stilgoe OAM found those environmental concerns, on the evidence before the Court, were not sufficient to justify refusal. The central issues were instead the project's greenhouse gas (GHG) emissions, climate change and human rights.

All objectors elected to be non-active objectors and did not file submissions with the Court.

GHG emissions and climate change

The objectors argued that approving the extension of mining operations would be inconsistent with the Queensland Government's transition to renewable energy and its emission reduction targets.

The Court received submissions that the relevant environmental authority required the development of a GHG emissions reduction plan and that the miners intended to implement various measures to limit emissions. The Court emphasised, however, that no emissions reduction plan was provided to the Court, nor evidence of what, if any, of the identified measures had been implemented.

Against that background, the Court considered it could not recommend approval because the evidence necessary to support a recommendation for grant was not before it. The Court recommended that approval not be granted unless and until the miners demonstrate real and significant progress towards mitigating their GHG emissions.

Relevance of the Human Rights Act in mining lease applications

As confirmed in *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21, the Court acts in an administrative capacity when performing functions conferred by *Mineral Resources Act 1989* (Qld) and *Environmental Protection Act 1994* (Qld) (EP Act). As a public entity, under section 58(1) of the *Human Rights Act 2019* (Qld), the Court's decision must be compatible with human rights and give proper consideration to any human rights relevant to the decision.

The objections included contentions that multiple rights would be limited beyond what is reasonable or demonstrably justifiable, including the rights to recognition and equality before the law, life, property, privacy, a child's right to protection, and the cultural rights of Aboriginal and Torres Strait Islander peoples.

The miners submitted that only property rights and the right to privacy were engaged. The Court disagreed and was not satisfied that these rights were engaged by the application.

The Court accepted that the causal link between the new mining lease and potential human rights breaches was more tenuous in this case than in *Waratah*, mainly because the objectors did not lead evidence on the issue. However, the Court confirmed that the absence of evidence from objectors is not, of itself, a basis to disregard possible human rights impacts.

The Court also rejected the miners' submission that any balance between potential human rights limitations and the project had already been addressed by the Department of the Environment, Tourism, Science and Innovation when issuing the related environmental authority under the EP Act. Notwithstanding that the Department is also a public entity and must act compatibly with human rights, the Court found that while it is "theoretically possible" that the Department's application of the EP Act's objects necessarily involved consideration of human rights, the environmental authority decision did not "cover the field" for any potential human rights breaches. The Court found that unless and until the Department expressly articulates that it has considered human rights, the Court was to proceed on the basis that it had not.

Consistent with *Waratah*, the Court concluded that the right to life and the right to protection of children are engaged and would be limited by the GHG emissions from the proposed mine extension. Whether those limitations are reasonable and demonstrably justifiable depended, to some extent, on the applicant's GHG mitigation strategies, evidence of which was found by the Court to be lacking.

Decision

Applying *Waratah*, the Court found the mining lease was economically sound and acceptable in terms of specific environmental impacts (flora, fauna, and water). However, whether it met broader environmental and social acceptability remained unresolved. Ultimately, the Court recommended against approval, but indicated that with further substantiated and explained GHG mitigation measures, the Court's concerns about wider environmental and social impacts of the expansion could be allayed.

The mining lease application was granted by the Minister in February 2026, which may indicate that the Court's concerns were addressed subsequent to the Court's decision.

Authors: Connor Davies, Senior Associate; Lydia O'Neill, Lawyer.

An aerial photograph of a coal mine. In the foreground, a large orange excavator is positioned on a dark, textured surface of coal. The background shows extensive mining operations with numerous tracks and large piles of coal. The overall scene is industrial and dark, with the orange of the excavator providing a strong contrast.

Land Court recommends grant of environmental authority despite environmental and human rights concerns

Key insights

- In [Rolleston Coal Holdings Pty Ltd v Department of Environment, Tourism, Science and Innovation \[2025\] QLC 22](#), the Land Court recommended approval of an extension to the Rolleston Open Cut Coal Mine despite objections from Lock the Gate Alliance Ltd and Environmental Advocacy in Central Queensland Inc on grounds of climate change and human rights.
- The decision underscores a recent trend in Land Court objections hearings: notwithstanding human rights and climate change challenges, coalmine extensions are still being approved where proponents demonstrate robust assessment, monitoring, and appropriate measures.

Environmental advocacy groups object to a Bowen Basin mine expansion

Rolleston Coal Holdings Pty Ltd applied to amend its environmental authority (EA) to extend its disturbance footprint at the Rolleston Open Cut Coal Mine in the southern Bowen Basin. Following a public notification process, the Department of the Environment, Tourism, Science and Innovation (DETSI) issued a draft amended EA permitting the extension. Lock the Gate Alliance Ltd and Environmental Advocacy in Central Queensland Inc (the objectors) objected to the draft EA but they did not proceed as active objectors at the hearing.

The Court noted the objections mirrored recent Land Court matters and grouped them as:

- alleged inadequacies in the assessment process;
- terrestrial ecology, rehabilitation and offsets;
- greenhouse gas (GHG) emissions and air quality;
- surface water, groundwater and groundwater dependent ecosystems; and
- social and economic impacts and human rights.

Assessment process found ‘probing and rigorous’

Environmental Advocacy in Central Queensland Inc submitted that DETSI should have required an Environmental Impact Statement for the extension project. The Court disagreed, finding the publicly notified assessment was “probing and rigorous”. This was supported by extensive expert reporting commissioned by Rolleston Coal.

Ecological assessments, rehabilitation and offset plans were adequate

The objectors alleged insufficient information and assessment of terrestrial ecology impacts and an inadequate rehabilitation plan. The Court rejected these submissions, citing Rolleston Coal’s extensive ecology surveys and noting that the rehabilitation plan addressed the objectors’ concerns.

The objectors also challenged offsets, arguing there was insufficient detail about how they would be achieved. The Court found the offsets appropriate, given the designated land’s similar management history and the availability of adaptive management if progress lagged. It also noted the ongoing *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC) assessment and the likely Commonwealth offset requirements.

GHG and air quality concerns effectively addressed

The existing EA authorised Rolleston Coal to mine up to 19 million tonnes of run of mine coal per annum. Rolleston Coal submitted that the proposed extension would not exceed that threshold or extend mine life, although it acknowledged production was expected to increase within the threshold to deliver an additional 33.7 Mt over 20 years.

The objectors argued that the additional coal produced through the mine’s extension was not reflected in the amendment application. The Court was not persuaded and accepted that production would remain under the maximum annual production rate, clarifying the distinction between approved production rate and actual production.

On emissions, the objectors argued that there was no clear plan to reduce scope 1–3 emissions. The Court disagreed, noting Rolleston Coal’s acceptance of draft EA conditions requiring a GHG Abatement Plan and the draft plan before the Court. The Rolleston Open Cut is also covered by the Commonwealth Safeguard Mechanism, so a broad reduction in emissions is expected over time.

Social, economic and human rights concerns

The objectors argued that the application failed to address climate change's negative social effects. Rolleston Coal argued that any harms were outweighed by the project's environmental and social benefits. The Court remained neutral, noting that time will determine the validity of Rolleston Coal's contentions about social and economic impacts.

As required for objections decisions, the Court acknowledged that it was acting in its administrative capacity. As a public entity under section 58(1) of the *Human Rights Act 2019* (Qld), the Court had to make a decision compatible with human rights and give proper consideration to any relevant rights.

DETSI accepted that, in the context of GHG emissions, the proposed extension would contribute to climate change and potentially limit the rights to life, protection of families and recognition and equality before the law.

The Court accepted the extension would contribute to climate change directly and indirectly but held that, to the extent rights were engaged, any limitation due to emissions was appropriate and proportionate on the facts.

The Court distinguished the recent decisions in *Re Sungela Pty Ltd & Anor* [2025] QLC 5 and *BHP Coal Pty Ltd & Ors v Chief Executive, Department of Environment, Science and Innovation* [2024] QLC on their facts and highlighted the difficulty the Court faces in comparative analysis when evidence regarding GHG emissions is presented to the Court.

Authors: Lydia O'Neill, Lawyer; Roxane Read, Senior Associate





Energy company resolves environmental authority Court appeal by agreement

Key insights

- In [Environmental Advocacy in Central Queensland Inc v Department of Environment, Tourism, Science and Innovation & Ors \[2025\] QLC 7](#), the Land Court considered a challenge to the grant of an environmental authority for multiple petroleum leases in the Bowen Basin.
- The appeal was ultimately resolved by agreement. The parties filed a joint statement which proposed orders by consent that the appeal be allowed on the basis that the decision to approve the EA be set aside and substituted with a decision by the Court to approve a version of the EA annexed to the joint statement, that included additional conditions.

Blue Energy's EA application and the appeal

Blue Energy, and its wholly owned subsidiary Eureka Petroleum Pty Ltd, had been conducting an exploration drilling campaign for its Bowen Basin coal seam gas assets. Through this campaign, it had identified three blocks as potentially commercially viable. Blue Energy applied for petroleum leases (PLs) for these blocks.

In January 2022, Blue Energy lodged an application with the Department of the Environment, Tourism, Science and Innovation (DETSI) for an environment authority (EA) authorising activities for these three applications. The EA application was approved in March 2023. This decision was upheld on internal review, with some variation to the conditions.

In August 2023, a group known as Environmental Advocacy in Central Queensland Inc (Environmental Advocacy) lodged an appeal of the internal review decision.

After the notice of appeal was filed, the energy company withdrew its PL applications for two of the blocks.

Calculation error in figures relevant to EA application – resolved

In the appeal, DETSI submitted that GHG emissions – including scope 3 emissions – are relevant and necessary considerations for decision-makers assessing an EA application for a petroleum project.

Queries arose about the accuracy of CSG production and GHG-related figures, which were subsequently described by the energy company as a calculation error which had knock-on effects to the assessment of GHG emissions for the project. The energy company corrected the relevant figures during the appeal, providing updated CSG production and GHG emissions figures to the Court and parties.

In light of this and some other matters, the parties agreed to resolve the appeal by consent.

The parties filed a joint statement which proposed orders by consent that the appeal be allowed on the basis that the July 2023 decision to approve the EA (with varied conditions) be set aside and substituted with a decision by the Court to approve a version of the EA annexed to the joint statement, that included additional conditions.

Other environmental issues addressed through additional conditions on EA

Environmental Advocacy, in its notice of appeal, challenged the adequacy of the groundwater, flora and fauna investigations and modelling provided in support of the energy company's EA application.

The energy company agreed to include the following measures in the EA to address these concerns:

- additional baseline monitoring and reporting on groundwater conditions;
- six additional monitoring bores (three deep and three shallow) across the Sapphire block;
- increased monitoring parameters for detecting impacts to groundwater level and quality;
- a requirement that all native vegetation clearing be undertaken in the presence of a qualified spotter;
- biodiversity maps to be prepared prior to activities commencing; and
- additional biodiversity reporting.

Public interest and human rights also raised

Environmental Advocacy also challenged the decision to grant the EA on the basis:

- that the grant would not be in the public interest; and
- of impacts to human rights, including to the cultural rights of Aboriginal and Torres Strait Islander Peoples under the *Human Rights Act 2019* (Qld) as a result of climate change.

These are now common grounds of challenge for new coal and gas developments in Queensland.

The Court relied on evidence from the energy company about the economic and social benefits of the proposal. This included evidence that the gas was being used at the Townsville Energy Chemicals Hub Project, a battery materials refinery, and would therefore be used as part of the energy transition. The energy company also gave evidence that the conversion of gas from the proposal to liquefied natural gas and combustion overseas was not currently realistic, limiting the gas produced to East Coast domestic consumption.

Authors: Connor Davies, Senior Associate and Martin Doyle.

Land Court takes strict approach to disclosure requirements

Key insights

- The Land Court recently considered the rules governing the disclosure of documents in Land Court proceedings.
- In [Whitehaven WS Pty Ltd v Australian Conservation Foundation Inc & Ors \(No 2\) \[2025\] QLC 16](#) the Court refused to make the disclosure order sought by the objectors.
- In [Santos TOGA Pty Ltd & Ors v Price; Santos TOGA Pty Ltd & Ors v Price & Ors; Price v Santos TOGA Pty Ltd & Ors \[2025\] QLC 23](#) the Land Court ruled on disclosure applications made by both parties to the matter.
- These decisions demonstrate the Court's preference to adopt a strict approach to disclosure requirements and the exercise of its discretion under the *Land Court Rules 2022*.



Recap: Disclosure in the Land Court

Parties to proceedings in the Land Court may make an application to the Court requiring another party to disclose documents. Disclosure is governed by rules 4, 13 and 14 of the *Land Court Rules 2022* (Rules). The Land Court may make an order for disclosure where it is satisfied that an order would achieve the main purposes of the Rules and the Court's objectives, namely:

- facilitating the just and quick resolution of the issues in a proceeding; and
- avoiding undue delay, expense and technicality in a proceeding.

Whitehaven WS Pty Ltd v Australian Conservation Foundation

The active objectors (Australian Conservation Foundation Inc (ACF) and Mackay Conservation Group Inc (MCG)) in objection proceedings against the Whitehaven Winchester South Coal Project applied for orders for disclosure of various types of documents just weeks before the substantive proceedings were scheduled to commence. These documents were held by a related third party entity (Whitehaven Coal Ltd) of the substantive applicant, Whitehaven WS Pty Ltd.

The active objectors applied for the disclosure of thirteen categories of documents. This was subsequently narrowed to four contested categories, which broadly comprised documents relating to climate risk assessment and reporting held by Whitehaven Coal Ltd.

The active objectors contended that the documents were relevant, for a legitimate forensic purpose, and beneficial to the proper conduct of their case and the Court's assessment.

Whitehaven WS Pty Ltd submitted that disclosure orders in the circumstances would represent a departure from the proper application of the Rules in relation to non-party disclosure. Further, given the lateness of the application in the context of the substantive proceedings, disclosure orders at this stage would be at odds with the main purposes of the Rules.

The Court refused to make a disclosure order in respect of the remaining contested categories as:

- the task of obtaining, reviewing and preparing the material for disclosure would be onerous, and would divert resources away from the preparation for the substantive proceedings;
- it had been open to the active objectors for months to request the documents sought, including by seeking orders in circumstances where the case had been carefully case managed; and
- the documents sought were likely in excess of what is required for the litigation, and any ambiguity about that rests with the applicant for disclosure.

Santos TOGA Pty Ltd v Price

Santos and associated entities (Santos parties) and the owner and occupier of property (the landholder) both made applications for the disclosure of documents for the purpose of separate proceedings in relation to conduct and compensation matters between the Santos parties and the landholder.

The Santos parties' application for disclosure was resolved by ruling and agreement, and the landholder's application was dismissed.

In dismissing the landholder's application, the Land Court determined that the landholder failed to demonstrate that the documents sought were "directly relevant" – that is, production of the documents sought tends to prove or disprove an allegation in issue and would materially benefit that party's case.

The Court determined that it would not be appropriate to exercise its discretion to make an order having regard to the main purposes of the Rules and the factors outlined [Adani Mining Pty Ltd and Anor v Pennings \[2021\] QSC 343](#).

The Court found that the landholder's application lacked precision and failed to provide clear bases for the requests. The Court also accepted evidence from the Santos parties in respect of onerous compliance implications and excessive delay.

Authors: Alex Buck, Senior Associate, Cooper Jones and Martin Doyle



Land Court clarifies when land is “used” as a mine

Key insights

- In [Citigold Corporation Limited v Charters Towers Regional Council \[2025\] QLC 27](#), the Land Court held that, at least for the purposes of ratings calculation by local governments, land is “used” as a mine when the mine is in care and maintenance. This is the case even when the care and maintenance activities are undertaken intermittently by a single person.
- The Court accepted that there should be a “temporal limit” when categorising land – it is the (intended) use during the rating period that is relevant, not past or future uses outside that period.
- Following dismissal of the appeal, the Court ordered Citigold to pay the Council’s costs.

Mining company appealed land categorisation for inoperative mine

Citigold Corporation Limited holds mining leases over multiple land parcels within the Charters Towers Region in North Queensland. These parcels were once part of a mine which ceased operations in 2015. Citigold aims to reopen operations at this mine but says there are considerable hurdles to overcome before that can happen.

Charters Towers Regional Council decided to categorise the relevant parcels for the purpose of levying rates. Citigold objected to the Council's categorisation, arguing a different category (with much lower rates payable) should apply.

Citigold eventually appealed the categorisation to the Land Court under (section 92 of the [Local Government Regulation 2012 \(Qld\)](#)). The Land Court dismissed the appeal. The Court considered a number of issues in relation to land categorisation, but its decision ultimately turned on what it means to “use” a parcel of land as a mine.

The Council categorises parcels for determining rates based on categories defined in its Revenue Statement for a rating period. It had categorised the relevant parcels as Category 20, which was defined in the relevant Revenue Statement as land that:

- is a mining lease with a rateable valuation greater than \$14,999, which forms part of a Mine with less than 25 employees and/or contractors, or
- has a rateable valuation greater than \$14,999 that is used or is capable of being used in whole or in part, for the purpose of a Mine or quarry with less than 25 employees and/or contractors.

A key element of the definition was the concept of a “Mine”, which included land the subject of a mining lease that “was used, is used, or intended to be used” as a mine or for purposes ancillary or associated with mining.

Citigold objected and argued that the land should have instead been categorised under Category 21, a lower catch-all category for mining leases. The key issue was the interpretation of the definition of “Mine”.

One of the first issues for determination was whether a local government could look at past or future uses outside the rating period when considering ratings categorisation. The Council had noted that the definition of Mine refers to land which “was used, is used or intended to be used” and argued this allowed it to consider uses beyond the immediate rating period.

The Court held that this was wrong, and that the relevant use was the use undertaken across the relevant rating

period. The question was thus whether the land “was used, is used or intended to be used” as a Mine within the rating period.

The Court held that land was “used as” a Mine when activities were being undertaken as part of care and maintenance of the site, in pursuance of a later reopening of the mine.

The Court adopted the High Court’s reasoning in [Federal Commissioner of Taxation v Broken Hill South Limited \(1941\) 65 CLR 150](#). In that case, the High Court determined that even limited activities related to maintenance, protection and safety of a mine were still “mining operations” where a “practical or real connection can be discerned between the work done at the mine and the eventual extraction of ore”.

The Court also noted that a parcel of land that sits idle, with no activities for care or management is not typically considered in “care and maintenance” (see [McClymont v Solar Silicon Resources Group Pte Ltd \[2016\] QLC 67](#)).

The Court then held that the evidence supported a conclusion that the land was in fact being used as part of “care and maintenance”.

Citigold’s managing director had expressly said in evidence that the mine was in “care and maintenance.” However, Citigold argued that no activities had actually occurred on the land in the relevant period, demonstrated by the fact that the parcels were in “significant disrepair.”

However, there was evidence of work being done. The Court heard evidence from Citigold that a single person, not employed by Citigold, would intermittently monitor the site on Citigold’s behalf. The Court held that this alone was enough to demonstrate that Citigold was undertaking monitoring of the mine, which amounted to care and maintenance. Further, as Citigold had already expressed its intention to reopen, the Court held this monitoring was in pursuance of that later reopening.

Citigold also made other arguments in relation to the definition of Category 20. In summary, the Court held that:

- the term “mining lease” in Category 20(a) included multiple mining leases – so the valuation of multiple mining leases can be combined for a single parcel of land; and
- “employees” includes management personnel such as Chief Financial Officers, and “contractors” includes consultants.

Costs

Following dismissal of the appeal, the Council applied for its costs. In [Citigold Corporation Limited v Charters Towers Regional Council \(No 2\) \[2025\] QLC 30](#), the Court ordered Citigold to pay the Council's costs of and incidental to the appeal, on the standard basis and at the District Court scale.

The Court acknowledged that, while the appeal was not brought as a test case, it did engage a matter of principle – namely, whether very minimal care and maintenance was sufficient to enliven the concept of a “Mine”.

However, the Court held that Citigold had brought the appeal for its own commercial reasons (success would have resulted in a material reduction of approximately 55% in the rates payable), and that the Council was wholly successful in defending its decision. The Court found there was no disentitling conduct on the part of the Council, and that costs should follow the event.

Keep an eye on your rating categorisation during care and maintenance

This case is an important reminder to mining companies to carefully consider their activities during periods where full operations at the mine have ceased. Based on this decision, anything more than total abandonment is sufficient for a mine to be considered operational for the purpose of ratings categorisation. Mining companies should also be aware that an unsuccessful challenge to categorisation may result in an adverse costs order.

These considerations should be factored in when considering potential rates and other charges which may be levied during periods of reduced operations.

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