

LEGISLATIVE COUNCIL

**Mining Amendment (Small-Scale Title Compensation) Bill 2014**

**First print**

**Proposed amendments**

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No. 1 **Land acquisition—mineral claims district**

Page 3, Schedule 1. Insert after line 1:

**[1] Section 173AA**

Insert after section 173:

**173AA Owner of land in mineral claims district may require Minister to acquire the land**

- (1) The owner of any land constituted as part of a mineral claims district (the *applicant*) may apply to the Minister for part or all of that land to be acquired by the Minister.
- (2) Any such application is to be made in the form prescribed by the regulations and must be made no later than 1 year after the relevant day.
- (3) The Minister, on receipt of any such application, is to provide the Valuer-General with a copy of the application.
- (4) The Valuer-General must then determine the market value of the land to which the application applies as on the relevant day and provide a copy of that determination to the Minister.
- (5) The Minister, on receipt of the determination, is to make a written offer to the applicant offering to acquire the land at 1.2 times the value determined by the Valuer-General.
- (6) The Minister must acquire the land for the amount offered if the applicant, within 3 months after receiving the offer, accepts the offer by notice in writing to the Minister.
- (7) In this section:  
*relevant day*, in respect of land, means the day on which the land is constituted as part of the mineral claims district or the day on which this section commences (whichever is the later).

No. 2 **Objections as to agricultural land**

Page 3, Schedule 1. Insert after line 3:

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**[2] Section 179 Objection as to agricultural land**

Omit “28 days” from section 179 (2). Insert instead “3 months”.

No. 3 **Prohibited mineral claims areas**

Page 3, Schedule 1. Insert after line 3:

**[2] Section 188 Dwelling-houses, gardens, and significant improvements**

Insert at the end of section 188 (1) (c):

,or

- (d) on which, or within the prescribed distance of which, is situated any dividing fence as defined in the *Dividing Fences Act 1991*,

**[3] Section 88 (1)**

Omit “or improvement”. Insert instead “, improvement or fence”.

**[4] Section 188 (2) (b)**

Omit “subsection (1) (b)”. Insert instead “subsection (1) (b)–(d)”.

**[5] Section 188 (4)**

Omit “or significant improvement”.

Insert instead “, significant improvement or dividing fence”.

No. 4 **Public liability insurance—mineral claims**

Page 3, Schedule 1. Insert after line 7:

**[3] Section 192 Conditions of mineral claim**

Insert after section 192 (3):

- (4) Without limiting the generality of subsection (1), it is a condition of a mineral claim that holder of the claim maintain adequate public liability insurance in respect of the exercise of any right conferred by that mineral claim.

No. 5 **Objections as to opal prospecting areas**

Page 3, Schedule 1. Insert after line 7:

**[3] Section 222 Objections**

Omit “28 days” from section 222 (1). Insert instead “3 months”.

No. 6 **Prohibited opal prospecting areas**

Page 3, Schedule 1. Insert after line 9:

**[4] Section 227A**

Insert after section 224:

**227A Opal prospecting prohibited in certain areas**

- (1) An opal prospecting licence may not be granted over the surface of any land:
- (a) on which, or within the prescribed distance of which, is situated a dwelling-house that is the principal place of residence of the person occupying it or a woolshed or shearing shed which is in use as such, or

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- (b) on which, or within the prescribed distance of which, is situated any garden, or
  - (c) on which, or within the prescribed distance of which, is situated any significant improvement other than an improvement constructed or used for mining purposes only, or
  - (d) on which, or within the prescribed distance of which, is situated any dividing fence as defined in the *Dividing Fences Act 1991*, except with the written consent of the owner of the dwelling-house, woolshed, shearing shed, garden, improvement or fence (and, in the case of the dwelling-house, the written consent of its occupant).
- (2) The prescribed distance is:
- (a) 200 metres (or, if a greater distance is prescribed by the regulations, the greater distance) for the purposes of subsection (1) (a), and
  - (b) 50 metres (or, if a greater distance is prescribed by the regulations, the greater distance) for the purposes of subsection (1) (b)–(d).
- (3) An opal prospecting licence may not be granted over land below the surface of land referred to in subsection (1) except at such depths, and subject to such conditions, as the mining registrar considers sufficient to minimise damage to that surface.

No. 7 **Public liability insurance—opal licences**

Page 3, Schedule 1. Insert after line 13:

**[5] Section 229 Conditions of licence**

Insert at the end of section 229:

- (2) Without limiting the generality of subsection (1), it is a condition of a opal prospecting licence that holder of the licence maintain adequate public liability insurance in respect of the exercise of any right conferred by that licence.

No. 8 **Access management plans**

Page 3, Schedule 1. Insert after line 13:

**[5] Section 236D Matters for which access management plan to provide**

Insert after section 236D (2):

- (3) An access management plan must not contain a provision that the Secretary would reasonably foresee to cause:
  - (a) a landholder to suffer an overall financial loss as a consequence of a holder of a small-scale title exercising his or her rights under this Act, or
  - (b) overall environmental degradation of land to which that plan applies as a consequence of a holder of a small-scale title exercising his or her rights under this Act.
- (4) An access management plan must not provide access to land to which that plan applies by the holder of a small-scale title outside the hours of 6 am to 10 pm except in cases of emergency.

**[6] Section 236E Miners' representative to seek access management plan**

Omit section 236E (1). Insert instead:

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- (1) If a miners' representative intends to negotiate an access management plan for any land that is or may be subject to a small-scale title, the representative must give reasonable notice of that intention by way of written notice served on the landholder.

No. 9 **Appeal against standard compensation determination**

Page 4, Schedule 1 [5], proposed section 266 (10), line 39. Omit all words on that line. Insert instead:

- (10) The Land and Environment Court may review a determination of standard compensation by the Minister in respect of land if an application for review is made by the landholder or a person holding a small-scale title over the land within 60 days after the determination is published in the Gazette. In any such review the Court is to have regard to the compensable loss suffered, or likely to be suffered, by the landholder as a result of the exercise of the rights conferred by small-scale titles over the land.
- (11) Where more than one application for review is made under subsection (10), the Court may order that concurrent proceedings of a similar nature be joined.

No. 10 **Reduction of standard compensation by Minister**

Page 4, Schedule 1 [5], proposed section 266 (11), line 40. Omit "vary or substitute". Insert instead "reduce".

No. 11 **Land acquisition—opal licence**

Page 5, Schedule 1. Insert after line 21:

**[8] Section 288A**

Insert after section 288:

**288A Owner of land in opal prospecting area may require Minister to acquire the land**

- (1) The owner of any land in an opal prospecting area (the *applicant*) may apply to the Minister for part or all of that land to be acquired by the Minister.
- (2) Any such application is to be made in the form prescribed by the regulations and must be made no later than 1 year after the relevant day.
- (3) The Minister, on receipt of any such application, is to provide the Valuer-General with a copy of the application.
- (4) The Valuer-General must then determine the market value of the land to which the application applies as on the relevant day and provide a copy of that determination to the Minister.
- (5) The Minister, on receipt of the determination, is to make a written offer to the applicant offering to acquire the land at 1.2 times the value determined by the Valuer-General.
- (6) The Minister must acquire the land for the amount offered if the applicant, within 3 months after receiving the offer, accepts the offer by notice in writing to the Minister.
- (7) In this section:  
*relevant day*, in respect of land, means the day on which the land is constituted as part of an opal prospecting area or the day on which this section commences (whichever is the later).