One day to go! The new Mineral and Energy Resources (Common Provisions) Act: 5 things you need to know

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Significant changes to resources legislation in Queensland will take effect from tomorrow, Tuesday 27 September 2016. We have set out below some examples of how the MERCP Act can impact resource exploration and production, and what you need to do.

1. Registration of land access agreements

Conduct and compensation agreements (**CCAs**) and a new form of agreement known as an "Opt-Out Agreement" must be recorded on the land register.

For any CCA entered into ***before tomorrow***, the tenement holder has six months to give notice to the registrar under the *Land Title Act 1994* or the *Land Act 1994* (as applicable).

For any CCA or Opt-Out Agreement that is entered into ***tomorrow or later***, the tenement holder must lodge a notice with (and pay a fee to) the registrar within 28 days of entering into the agreement. The tenement holder is also responsible for notifying the relevant registrar once the agreement ends.

2. Restricted land

The definition of restricted land has been amended, e.g. restricted land now includes land within 200m of a residence. We recommend that all exploration tenure holders review the restricted land within their tenure.

3. Overlapping coal and CSG tenure

The MERCP Act introduces a new overlapping tenure regime for coal and CSG. Importantly, if you have applied for a coal mining lease over the area of a CSG tenure then you are required to give an "advance notice" to the CSG tenure holder within 10 business days of commencement of the MERCP Act – that is, by 11 October 2016. This requirement does not apply where the CSG tenure is a PL granted before the commencement or where a coordination arrangement has been approved for the overlapping area.

4. Co-Development Agreements

The MERCP Act sets up a regime of mandatory and non-mandatory overlapping coal and CSG provisions. Coal and CSG parties cannot contract out of the **mandatory** provisions. This has significant consequences for parties who are subject to the new overlapping tenure regime, but have entered into Co-Development Agreements. The MERCP Act does not preserve Co-Development Agreements. Where a provision of such an agreement is inconsistent with non-mandatory provisions, the parties are taken to have agreed that the non-mandatory provisions do not apply. However, the parties must still comply with the mandatory provisions. This may create significant conflict between what the parties have agreed in their Co-Development Agreement and what they are required to do under the MERCP Act.

We recommend that all coal and CSG tenement holders carefully review their Co-Development Agreements and consider whether any amendment to the Co-Development Agreement is necessary

to align it with the MERCP Act mandatory provisions. Termination of the Co-Development Agreement may also be an alternative for parties who have conflicting requirements under their Co-Development Agreement and the MERCP Act mandatory provisions, and who agree that the new overlap provisions should apply.

5. Joint interaction management plan

Coal and CSG parties are now required to enter into a joint interaction management plan that identifies hazards and assesses risks in overlapping areas. There are transitional provisions that provide a six month extension to the requirement to agree a JIMP in most circumstances. On and from 27 March 2017 (i.e. six months from commencement) a JIMP must be in place prior to activities commencing on an EPC or coal mining lease. There are similar provisions for activities under CSG tenure.

The MERCP Act introduces a raft of changes that could have significant impacts on a resource project - whether a mineral, coal or petroleum project.

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