

MEMORANDUM

BRIEFING PAPER

This briefing paper was provided to the Commission and contains options for consideration prior to publication of a consultation paper.

To: Commissioners
From: Secretariat (mining lease objections review team)
Date: 12 March 2024
Subject: Briefing notes – background information

Briefing notes

We have developed 7 briefing notes (summarised below and attached).

It is intended that these briefing notes will inform the Commission for the meeting on 19 March, which will be run as a workshop. An agenda, and hard copies of all briefing notes, will be provided at the meeting.

The briefing notes and workshop will assist in developing the consultation paper, including identifying the issues and options to be included.

Document	Topic	Overview
Briefing note 1	Overarching reform options	Issues and options for overarching reforms to the processes to decide contested applications for mining leases and associated environmental authorities in Queensland
Briefing note 2	Participation	The current law in relation to participation in the processes to decide contested applications for mining leases and associated environmental authorities and issues and reform options
Briefing note 3	Notification	The current law in relation to notification of applications for mining leases and associated environmental authorities and issues and reform options
Briefing note 4	Merits assessment	The current law in relation to merits assessment of contested applications for

		mining leases and associated environmental authorities and issues and reform options
Briefing note 5	Decision	The current law in relation to decisions on applications for mining leases and associated environmental authorities and issues and reform options
Briefing note 6	Judicial review	The implications of the Judicial Review Act 1991 for decisions about contested applications for mining leases and associated environmental authorities
Briefing note 7	State Development and Public Works Organisation Act 1971	An overview of the functions and powers of the Coordinator-General of relevance to our review and how any recommended process would interact with decisions made under the SDPWO Act.

Scope of briefing notes

The briefing notes provided for this meeting primarily focus on the key elements of the process to decide contested applications for mining leases and associated environmental authorities, established under the Mineral Resources Act 1989 and the Environmental Protection Act 1994.

Key elements

For the purposes of analysis, we have broken up the process to decide contested applications into the following key elements:

- Participation – the opportunities for members of the community, landholders and others to participate before the government decides each application
- Notification – how people are made aware of the applications and their opportunities to participate, and information is shared
- Merits assessment – the assessment of the merits of contested applications by a court
- Decision - the government decision whether to grant, grant with conditions or refuse the mining lease application or associated environmental authority.

These briefing notes necessarily overlap.

Other laws

We have also included 2 briefing notes that consider implications or interactions with other laws: the State Development and Public Works Organisation Act 1971 and judicial review.

The consideration of and interactions with decisions made under a range of other Acts will be considered further in future, as will the implications of the Human Rights Act 2019.

Stakeholder views

At this early stage of our review, we have engaged in informal meetings, discussions and roundtables. We have also accessed written submissions provided to previous consultations and inquiries and the reports of these inquiries, as well as research literature and secondary source documents. Collectively, these sources have provided insight into key issues and options for our review, both broadly and for specific elements of the process. We recognise that there have been amendments to the process for deciding contested applications for mining leases and associated environmental authorities since some of these submissions were made. We also recognise that some organisational perspectives may have changed.

Our consultation to this point has not been exhaustive and we recognise that further consultation with all stakeholders is required, with some stakeholders' voices under-represented to date (for example, community members with experience in mining objections processes, the agricultural sector). We will seek to address these deficits as our review continues.

We recognise that our understanding of issues and options will necessarily expand and develop throughout the review.

Abbreviations

In the briefing notes, we use the following abbreviations:

Abbreviation	Meaning
C-G	Coordinator-General
EA	Environmental authority
EIS	Environmental Impact Statement
EP Act	Environmental Protection Act 1994 (Qld)
JR Act	Judicial Review Act 1991 (Qld)
ML	Mining lease
MR Act	Mineral Resources Act 1989 (Qld)
SDWPO Act	State Development and Public Works Organisation Act 1971 (Qld)

Terminology - stakeholders

In this briefing note, we refer to stakeholders as follows:

Stakeholder	Meaning
Academics	Individuals employed or otherwise associated with universities or other related institutions, including their writing and publications
Community	Individuals and community groups (note that First Nations community is a separate stakeholder category) who may represent the views and interests of their local or specific group
Environmental organisations	Legal and advocacy organisations with objectives that include protecting the environment (eg Environmental Defenders Office, Queensland Conservation Council)
First Nations	Including Aboriginal and Torres Strait Islander peoples and organisations
Industry	Including mining companies and resource industry bodies and associations
Landholders	Including individual owners and other entities and others with a particular interest in land and landholder organisations
Legal professionals	Members of the legal profession and legal professional bodies
Local Government	The local governments or councils in Queensland