

The value is to be determined as assessable revenue less allowable deductions during a royalty period. Assessable revenue during a royalty period includes the total price paid or payable for export coal disposed of by the leaseholder being an amount calculated using the free on board (fob) price rate on the basis of invoices or other records provided it is on an arm's length basis plus the amount of any foreign exchange gains in connection with the disposal of coal plus the total price paid or payable for domestic coal on the basis of invoices or other records provided that it is on an arm's length basis plus the amount of any royalty recovered or recoverable from a customer if not otherwise included in the price plus revenue determined by an authorised officer as arm's length basis revenue where the disposal was not on an arm's length basis less any interest received in respect of coal sold on an extended credit basis plus any reconciliation required from earlier royalty returns.

Allowable deductions during a royalty period include the following items exclusive of GST: beneficiation costs (\$3.50 per tonne for cycle of full washing, \$2 per tonne for simple washing process and 50c per tonne for crushing and screening but not washing), cost of transport to washery when remote (ie further than 3km) from mining lease, cost of transport to train loader when remote from product stockpile, cost of transport from the mine stockpile to the port or end user, cost of ship loading and other port charges, demurrage costs, despatch or other bonuses, coal research levy, mine subsidence levy, Commonwealth levy for long service leave, mines rescue levy, bank commissions incurred in relation to issuing letters of credit for export shipment, ocean freight and insurance for cif sales, export credit insurance, any irrecoverable amount such as bad debts on coal sales and such other charges as may be determined by an authorised officer.

Each of these items is dealt with in more detail in Schedule B to the determination.

## QUEENSLAND

### QUEENSLAND PARLIAMENT INTRODUCES *PETROLEUM AND OTHER LEGISLATION AMENDMENT BILL*\*

On 18 August 2004, the Hon Stephen Robertson MP introduced to Queensland Parliament the second significant piece of legislation in several months to impact on the Queensland petroleum and gas industries. The *Petroleum and Other Legislation Amendment Bill 2004* (POLA Bill) amends the *Petroleum and Gas (Production and Safety) Bill 2004* (P&G Bill) and the *Petroleum Act 1923* (1923 Act). Regular readers of the recent developments section will be aware of the introduction of the P&G Bill into Queensland Parliament earlier this year.

The purposes of the POLA Bill are threefold. First, the POLA Bill ensures that holders of exploration tenure granted before 23 December 1996 will continue to enjoy the right to grant of a petroleum lease under the 1923 Act. As the grant of a petroleum lease under the 1923 Act is considered "a pre-existing rights based act" under the *Native Title Act 1993*, the POLA Bill will enable some ATP holders to continue to enjoy the right to grant of a petroleum lease without the requirement to undergo native title processes.

Secondly, to ensure conformity between the new petroleum and gas regime of the P&G Bill and those tenures continuing under the 1923 Act, the POLA Bill amends the 1923 Act to introduce

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\* Tony Nunan, Partner, Hopgood and Ganim.

significant elements of the new petroleum and gas regime. The POLA Bill also takes care of some “house keeping” and amends provisions of the P&G Bill.

Thirdly, the POLA Bill includes transitional provisions for the new petroleum regime in Queensland.

### **Coal Seam Gas**

As noted in the July 2004 edition of this journal, one of the main catalysts for the introduction of the POLA Bill has been the recent expansion of the coal seam gas industry in Queensland. Under the P&G Bill, a petroleum lease can only be granted over existing coal or oil shale mining leases, and vice versa, if the existing lease holder:

- (a) enters into a “coordination arrangement” with the person seeking the overlapping lease; or
- (b) the existing lease holder is a joint applicant.

The requirement for a joint application or a coordination arrangement with coal or oil shale mining lease holders underpins the Queensland Government’s policy regarding coal seam gas production. As a result, any holders of exploration tenures for petroleum in Queensland where there is an overlap with a coal mining tenure (either exploration or production) will lose their current rights under the 1923 Act to the grant of a petroleum lease without being required to undergo native title processes. Any applications for the grant of a petroleum lease from an exploration tenement that overlaps a coal or oil shale mining lease shall be deemed to be made in accordance with the P&G Bill.

### **Transitional Arrangements**

The POLA Bill incorporates transitional provisions for current tenures from the old regime to the new. Exploration tenures granted before 23 December 1996 and any production leases granted from these exploration tenure will continue to operate under the 1923 Act. All other tenures will be transferred over to the P&G Bill.

### **Summary**

The POLA Bill continues the Queensland Government’s review of existing petroleum legislation. It is intended that the new petroleum laws will deliver the certainty and stability needed for Queensland’s significant coal seam gas and petroleum resources to be developed and to ensure the continuing development of a cleaner source of energy for the State.

## **APPLICATION FOR MINING LEASE\***

*Re Millennium Coal Pty Ltd* ([2004] QLRT 72 (Smith DP))

*Mining lease – Financial and technical capabilities – Recommendation*

### **Background**

The applicant lodged applications for mining leases for the purpose of mining coal and overburden stockpiles, mine excavations, environmental dams, and haul and access roads. Although two objections were initially lodged, these were subsequently withdrawn.

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\* Matt Black, research officer to the presiding members, Land and Resources Tribunal.