Impact Analysis Statement

Summary IAS

Details

Lead department	Queensland Treasury
Name of the proposal	Amendments to the Financial Provisioning Act
Submission type (*Summary IAS / Consultation IAS / Decision IAS)*	Summary IAS
Title of related legislative or regulatory instrument	Mineral and Energy Resources (Financial Provisioning) Act 2018
Date of issue	21 September 2023

Summary
This IAS is for a suite of changes to the Mineral and Energy Resources (Financial Provisioning) Act 2018 and of the eight recommendations seven do not require further impact assessment. The eight recommendations are:

- **Prescribed Estimated Rehabilitation Cost**: Increase the prescribed estimated rehabilitation cost (ERC) for risk assessments from the existing $100,000 to $10 million reducing compliance and administrative burden.
- **Risk Category Allocation**: Introduce a fifth risk category of Moderate-High to better allocate mines to risk categories.
- **Fund Threshold Level**: Increase the fund threshold for BBB+ or better credit rated entities to $600 million, increasing availability of finance. However, retaining a $450 million threshold for all other entities that are higher risk.
- **Pricing points**: Change the prescribed percentages of risk categories appropriately. Very Low and Low risk category rates remain the same, Moderate falls from 2.75 per cent to 2.25 per cent, and Moderate-High is 6.5 per cent.
- **Post-transition transitional arrangements**: Providing more flexibility for EA Holders that are transitioning to higher risk categories.
- **Annual review**: Align EA assessments by grouping them by the assessed entity and to realign annual review dates so grouped assessments can be reviewed at the same time.
- **Fees**: not increasing fees was supported by industry. It was noted in the townhalls that some consider the fees to be high and in recognition of introducing ‘Assessment Pathways’, a ‘Streamlined’ assessment for those EAs with an ERC of $50m or more will incur a fee 50 percent less than what they would otherwise pay.
- **Administrative change to the Act**: is an internal-to-Government change related to the eligibility of abandoned petroleum and gas sites being eligible for a grant for rehabilitation – the change seeks to make abandoned P&G sites eligible.

Proposal type	Details
Minor and machinery in nature	*“This proposal is machinery in nature and does not result in a substantive change to regulatory policy or new impacts on business, government or the community”* • **Post-transition transitional arrangements**: Providing more flexibility for EA Holders that are transitioning to higher risk categories. • **Annual review**: Align EA assessments by grouping them by the assessed entity and to realign annual review dates so grouped assessments can be reviewed at the same time. • **Fees**: not increasing fees was supported by industry. It was noted in the townhalls that some consider the fees to be high and in recognition of introducing ‘Assessment Pathways’, a ‘Streamlined’ assessment for those EAs with an ERC of $50m or more will incur a fee 50 percent less than what they would otherwise pay. • **Administrative change to the Act**: is an internal-to-Government change related to the eligibility of abandoned petroleum and gas sites being eligible for a grant for rehabilitation – the change seeks to make abandoned P&G sites eligible.
Regulatory proposals where no RIA is required	*“The proposal relates to* actuarial based assessments. *No regulatory impact analysis is required under the Better Regulation Policy.”* • **Risk Category Allocation**: Introduce a fifth risk category of Moderate-High to better allocate mines to risk categories. • **Fund Threshold Level**: Increase the fund threshold for BBB+ or better credit rated entities to $600 million, increasing availability of finance. However, retaining a $450 million threshold for all other entities that are higher risk. • **Pricing points**: Change the prescribed percentages of risk categories appropriately. Very Low and Low risk category rates remain the same, Moderate falls from 2.75 per cent to 2.25 per cent, and Moderate-High is 6.5 per cent.

What is the nature, size and scope of the problem? What are the objectives of government action?
Prescribed Estimated Rehabilitation Cost Current situation: The Scheme was designed to capture all EAs previously administered under the Financial Assurance framework (prior Scheme). In order to determine the subset of EAs to be assessed, a minimum Prescribed ERC of $100,000 was established. During the design phase of the Scheme, the Prescribed ERC was originally $50,000 and was increased to $100,000 for an individual EA, as opposed to aggregate ERC for individual EA Holders being over $100,000. This was done so that the time and effort to risk assess did not substantially exceed the possible fees being levied to industry. Proposed change: It is proposed to increase the prescribed ERC for risk assessments from the existing $100,000 to $10 million. All EAs with an ERC of less than $10 million will be obliged to provide surety equal to 100% of the value of the ERC in an approved form.

What options were considered?
The Risk Advisor suggests a level between $2 million and $5 million based on individual contribution rates exceeding the cost of assessment. Stakeholder feedback show both positive and negative reactions to the level of $10 million, although it should be noted negative feedback stated it will unfairly impact junior and mid-tier operators. It has been found that of the 275 EAs between $100,000 and $10 million, 134 are already considered High risk and are therefore already provisioned by way of surety. Evidence based analysis shows that the financial standing of the junior and weaker mid-tier operators is such that they will not be considered anything other than High risk. Of the 32 EAs between $5 million and $10 million 17 are considered High risk and are already provisioned by way of surety, and the remaining 15 EAs are largely represented by Low and Very Low risk outcomes (69% by ERC exposure). These companies would likely be able to obtain surety on a standalone credit basis, the majority of these EAs are oil and gas assets (82% by ERC) and coal assets (7% by ERC exposure).
What are the impacts?
Analysis from the actuary supports that a move from $100,000 to $10 million does not materially affect the Scheme Fund with a reduction in ERC exposure at less than 1% and Fund contribution less than 3% in lieu of the administrative benefits of reducing the number of assessments from 385 to 110. The actuary also notes the expected loss reduces 17% and the 1-in-200 year loss also reduces 4%. In addition, the actuary stress-tested the Prescribed ERC level of $10 million and higher and noted that while much higher level of Prescribed ERC will affect diversification, amounts around the $10 - $15 million or less, impact to diversification was minimal. There are a number of companies with multiple environmental authorities (EAs) hoping to benefit from this change by dropping out of the risk assessment process. Across just a couple of companies there are more than 70 EAs where industry is currently required to provide time, effort and cost collating company financials and project specific information across the year. While there are 141 EAs that can benefit from this change the Scheme will allow for those seeking to retain their capital benefit of not having to provide surety by remaining in the risk assessment process to do so.
Who was consulted?
Consultation occurred with industry over four rounds commencing in June 2022, and included release of discussion papers, submissions and public meetings. The Scheme manager initially sought broad feedback on the Scheme's operations and then responses to potential amendments. In February 2023 the Acting Scheme Manager wrote to all non-high-risk EA holders with an ERC between $0.1 million and $10 million advising of the proposed changes and asking how they would be impacted. The proposal was amended to address the concerns of 4 EA holders.
What is the recommended option and why?
While requiring more EA holders to provide surety may have an adverse impact on a small number of companies, this impact will be mitigated by the Scheme Manager's discretion to exempt them from providing surety and to remain in the risk assessment process. The Scheme Manager considers it unlikely there will be significant adverse impacts.

Impact assessment

The simplified direct costs calculator tool was used based on experience from working with EA Holders and averaging assumptions based on the following:

- 141 EAs directly impacted with 1 individual (or several concurrently) taking 3 days to complete the Scheme questionnaire at an average hourly rate of $50.
- The negative amount represents savings to industry for work they no longer need to complete.
- Where the EA Holder chooses to remain in the risk assessment process they have the capital relief of not having to provide surety to 100 per cent of their ERC and be able to make a contribution to the Scheme Fund at the Very Low 0.5%, Low 1% or Moderate 2.75% rate depending on their risk category allocation.

	First full year	First 10 years**
Direct costs – *Compliance costs**	-$388,400	-$1,440,777
Direct costs – *Government costs*	Zero additional costs expected	Zero additional costs expected

* The *direct costs calculator tool* (available at www.treasury.qld.gov.au/betterregulation) should be used to calculate direct costs of regulatory burden. If the proposal has no costs, report as zero. **Agency to note where a longer or different timeframe may be more appropriate.

Signed

Under Treasurer
Date: 10 October 2023

Treasurer and Minister for Trade and Investment
Date: 10 October 2023