

Carter Newell LAWYERS

Explorer's Guide to Queensland



3rd edition

Carter Newell Lawyers is an award winning specialist law firm providing legal advice to Australian and international corporate clients in our key specialist practice areas of:

- Insurance
- Construction & Engineering
- Energy & Resources
- Corporate
- Commercial Property
- Litigation & Dispute Resolution
- Aviation & Transport
- Planning & Environment
- Workplace Advisory

Within each of these core areas we have dedicated experts who are committed to and passionate about their field and have extensive experience and knowledge.

Our Awards

2021, 2020, 2019, 2018, 2017, 2016 (edns) Best Lawyers in Australia

2019 Winner 2020, 2018, 2017, 2016, 2015 Finalist Australasian Law Awards – Insurance Specialist Firm of the Year

2019 Winner 2020, 2017, 2016 Finalist Australasian Law Awards – Law Firm of the Year (1 to 100 lawyers)

2020, 2018, 2016 Finalist Australasian Law Awards – Employee Health & Wellbeing Award

2020 Leading Planning & Development Law Firm – Doyle's Guide

2020, 2019, 2018, 2017, 2016, 2015, 2014, 2012 Leading Construction & Infrastructure Litigation (Back-End Construction & Contentious Construction) Law Firm – Doyle's Guide

2020, 2019, 2018 Leading Corporate Law Firm – Doyle's Guide

2020, 2019, 2018, 2017, 2015 Leading Australian Aviation Law Firm – Doyle's Guide

2019 Winner Australasian Lawyer – Employer of Choice

2019, 2018, 2017, 2016, 2015 Leading Professional Indemnity Law Firm – Doyle's Guide

2019, 2018, 2017, 2016, 2012 Leading Energy & Resources Law Firm – Doyle's Guide

2019, 2018, 2017, 2015, 2012 Leading Commercial Litigation & Dispute Resolution Law Firm – Doyle's Guide

2019, 2018 Finalist Lawyers Weekly Australian Law Awards – Insurance Team of the Year

2019, 2017 Finalist Lawyers Weekly Australian Law Awards – Dispute Resolution Team of the year.

2019 Finalist Lawyers Weekly Australian Law Awards – Law Firm of the Year

2019 Leading Queensland Front End Construction & Infrastructure Law Firm – Doyle's Guide

2019, 2018, 2017, 2016, 2015 Leading Defendant Medical Negligence Law Firm – Doyle's Guide

2019, 2018, 2017, 2016, 2015 Leading Defendant Public and Product Liability Law Firm – Doyle's Guide

2018, 2016 Winner 2017, 2015 Finalist Australasian Law Awards – State / Regional Firm of the Year

2018 Finalist Lawyers Weekly Australian Law Awards – Energy & Resources Team of the Year and Employee Program of the Year

2018 Finalist Financial Review Client Choice Awards

**Doyle's Guide to the Australian Legal Profession*

This Guide was prepared based on the legislation in force as at 1 May 2020. Due to the extensive nature of this Guide and the pace of reforms, there may be some references to legislation and other regulations that are no longer current, yet to be proclaimed, amended or repealed. This Guide attempts to draw out the most significant points in the relevant legislation. Whilst all care has been taken to ensure that the most up to date information has been included, not all aspects of the legislation have been considered. The material contained in this Guide is in the nature of general comment only, and neither purports nor is intended to be advice on any particular matter. No reader should act on the basis of any matter contained in this publication without considering, and if necessary, taking appropriate professional advice upon his or her particular circumstances.

Explorer's Guide to Queensland

Contributors

Bronwyn Clarkson
James Plumb
Johanna Kennerley
Lara Radik
Kelly Pain
Allison Haworth
Jasmine Wood
Shaun Pryor
Gemma Sweeney

With a foreword by

Mr Ian Macfarlane
Chief Executive
Queensland Resources Council



Carter Newell Publications
Brisbane • Sydney • Melbourne

PREFACE TO THIRD EDITION

We are proud to present our third edition of the *Explorer's Guide to Queensland*.

While levels of production of key Queensland resources have hit record highs, expenditure on exploration in the state has only just started to recover from historic low points. Statistics released by the Australian Bureau of Statistics and the Queensland Exploration Council in recent times show that, while there have been material increases in expenditure since 2017, exploration activity levels remain a mere fraction of their high points at the start of the decade.

While many Queensland explorers continue to find it difficult to secure access to funds, those that can secure funding have been faced with an ever-changing regulatory regime. In addition, explorers have faced increasing pressure associated with securing and maintaining their social licence to operate, in particular managing impacts upon the environment and key stakeholders, including traditional owners and impacted landholders.

Despite these pressures, there are signs of optimism in the sector. The Queensland Exploration Council's 2019 annual survey revealed plans to increase expenditure on exploration by a large majority of participants and growing praise for the efforts of the Department of Natural Resources, Mines and Energy in its support for the sector.

Since the publication of the second edition of this *Guide* in 2015, there have been fundamental changes to tenement management requirements, land access mechanisms, environmental licensing, financial assurance and remediation obligations, co-development of resources under overlapping tenure and many other key regulatory obligations that impact upon the management of exploration activities in Queensland.

In this third edition of the *Guide*, we have updated all key legislative changes up to 1 May 2020, with the aim to keep the *Guide* current and as relevant as possible for the exploration sector. We hope that with this third edition, our *Explorer's Guide to Queensland* will continue to be a useful resource for explorers in providing a detailed overview of the key aspects of the legal landscape applying to exploration activities.

James Plumb, Partner
Carter Newell Lawyers
Brisbane

FOREWORD

One of my prized possessions, proudly on display in my office at QRC, is my great-grand father's geo-pick. He was Chief Government Geologist. Family legend is that he even took this rock-hammer to war with him when he enlisted in the Army back in 1915, because "you never know when you're going to spot an interesting specimen".

Successful exploration underpins so much of our unique Queensland quality of life, which is why I am pleased to introduce the third edition of this *Explorer's Guide to Queensland*. Carter Newell Lawyers' guide aims to help explorers understand the regulatory processes affecting resource exploration. I recommend this guide as a first step to gain an understanding of Queensland's regulatory regime. I'd recommend your second step should be joining the Queensland Exploration Council.

Queensland has long been known for its wealth of resource endowment. Investments in our coal industry started up in earnest during the 1950s. At the beginning of this century, Queensland enjoyed unprecedented growth in coal seam gas ultimately establishing the world's first Liquefied Natural Gas export industry. Queensland's North West Minerals Province has been an economic powerhouse for more than 75 years and our knowledge of that priceless inlier continues to evolve with known cobalt, copper and zinc deposits amongst the largest in the world. The region has plenty of potential in new economy minerals too. Queensland has also reaped the benefit of our huge bauxite reserves and adding value by refining to export alumina and smelting aluminium exports too.

Realising the benefits of Queensland's resource endowment in a balanced way is the never-ending challenge for our regulatory framework. New ways of developing resources, through technological and engineering advances, means the system that governs those activities must also continuously evolve. This guide will walk you through this hand in glove relationship between innovation and regulation.

Since the last edition of this Guide in 2015, Queensland has seen significant regulatory reforms; from the reporting of geoscience data to maximum terms on exploration tenure terms. There have also been fresh challenges and new uncertainty arise including the collapse of global oil prices and the coronavirus pandemic.

As the industry recovers, explorers will continue to play a vital role in attracting new investment to Queensland and delivering a pipeline of future prosperity to our regions. Ensuring that you are informed about the regulatory environment is the best way to add value to the geology your project has pegged.

Ian Macfarlane
Chief Executive
Queensland Resources Council

April 2020

** The Queensland Resources Council is the peak representative body for minerals and energy developers in Queensland, representing more than 200 companies and individuals.*

TABLE OF CONTENTS

Preface to the third edition	iii
Foreword	v
Table of statutes	ix
Glossary	xi
1 An introduction to exploration in Queensland.....	1
2 Permit requirements – petroleum and gas.....	3
Petroleum exploration	3
The legislative process to gain exploration approval	3
Ongoing conditions of an authority to prospect.....	8
Progressing an authority to prospect	11
Disqualification criteria	16
3 Permit requirements – minerals.....	17
Mineral exploration	17
The legislative process to gain exploration approval	17
Permitted exploration activities	19
Ongoing conditions of an exploration permit	21
Progressing an exploration permit.....	26
Disqualification criteria	29
4 Overlapping permits.....	31
A right of way for coal.....	31
Rolling abandonment model	32
Notice periods	33
Compensation	33
Incidental coal seam gas	34
Overlapping exploration activities	34
Transitional arrangements	34
Changing the default position	34
5 Access to private land	35
Land access framework	35
Making contact with landholders	35
Land access code	37
Working out compensation and access terms	38
Public land.....	42
6 Restrictions on accessing land.....	47
Regional planning interests	47
Restricted land	51
Other restrictions	52

7	Environmental Regulation and Obligations	53
	General obligations.....	53
	Environmental authorities for resource activities.....	54
	Standard applications.....	54
	Variation applications	55
	Site-specific applications	57
	Considerations when applying for a production lease or complex or large-scale exploration permit.....	60
	Water rights and regulation	61
8	Native title and cultural heritage.....	63
	Native title.....	63
	Cultural heritage	68
	Non-compliance.....	71
	Declarations made under Commonwealth legislation.....	72
9	Safety.....	73
	<i>Work Health and Safety Act 2011 (Qld)</i>	73
	Petroleum and gas	79
	Coal and metalliferous mining	83
	Safety reform	87
10	Commercial considerations	89
	Royalties	89
	Duty	90
	Access to infrastructure.....	91
11	Business structures for explorers	93
	Farmin agreements.....	93
	Joint ventures	93
	Utilising a trust.....	100
	Using a stand-alone or special purpose investor company.....	101
	Partnership	102
	The importance of tax issues	103

***Carter
Newell***
LAWYERS