

Consultation Regulatory Impact Statement

Development of a levy structure to fund the expanded role of the Office of Groundwater Impact Assessment in the mining sector

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Executive Summary

Purpose

The purpose of this regulatory impact statement (RIS) is to develop a structure for the annual levy to fund the mining-related functions of the Office of Groundwater Impact Assessment (OGIA), as required under section 479 of the *Water Act 2000* (Water Act). The RIS presents options for a levy structure for consultation with stakeholders.

For clarity, this RIS does not include an analysis of the apportionment of the annual levy among petroleum and gas (P&G) tenure holders, as this is already established under section 90 of the *Water Regulation 2016* (Water Regulation), nor does it apply to P&G-related functions or examine the broader framework which establishes OGIA and prescribes its functions.

Context

OGIA is an independent entity established under Chapter 3A of the Water Act to:

- assess the cumulative impacts on underground water caused by the exercise of underground water rights by resource tenure holders;
- advise on matters relating to groundwater impacts from resource development;
- establish and maintain a database of information about underground water; and
- prepare underground water impact reports (UWIRs) for cumulative management areas (CMAs).

Section 479 of the Water Act provides for OGIA to be funded through an annual levy only, with the structure of the levy to be established under the Water Regulation.

Under Queensland legislation, a resource tenure holder has a limited statutory right to take or interfere with associated water (underground water right)—a reference to groundwater that is typically extracted to provide for safe operating conditions for resource extraction (e.g. coal) or to achieve necessary pressure for resource extraction (e.g. coal seam gas (CSG)). This right is subject to a number of obligations contained in Chapter 3 of the Water Act (which is administered by the Department of Environment and Science (DES)) for the management of impacts on underground water from resource extraction.

A key obligation is for tenure holders to prepare UWIRs, which include groundwater impact assessment, monitoring and management arrangements, as well as to 'make good' any impairment of supply to private water bores. However, if there is potential for impacts to overlap, the chief executive of DES (or his delegate) may declare a CMA.

Within a CMA, OGIA becomes responsible for preparing a single UWIR for the entire CMA, displacing the individual tenure holders' obligation to prepare their own UWIRs. In addition to undertaking cumulative impact assessment and establishing management arrangements, OGIA also determines responsible tenure holders to implement specific aspects of those management arrangements. This provides for an independent regional impact assessment and clarity on responsibilities of individual tenure holders for management actions within the CMA.

Underground water rights have existed for P&G tenure holders for some time. Legislative changes effective from 6 December 2016 apply these same rights and obligations to certain mining activities. Currently, there is only one CMA—the Surat CMA. The Surat CMA applies to P&G tenures only.

Scope of the levies and magnitude of the funding requirement

This RIS does not apply to P&G-related functions or examine the broader framework which establishes OGIA and prescribes its functions and funding arrangements. A levy structure for the P&G functions has been in place since 2010.

The current RIS evaluates options for a structure for the levy to fund mining-related functions which came into effect from 6 December 2016 through amendments to the Water Act. Although there is not yet a CMA applying to mining tenures, DES is currently considering inclusion of Surat Basin and Clarence Moreton coal mining tenures in the Surat CMA and may also consider CMAs that include mining in other regions in the future.

OGIA currently raises about \$4.1 million from the P&G tenure holders in the Surat CMA. Should coal mining be included in the Surat CMA, it is anticipated that OGIA will incur an additional cost of \$250,000 to \$400,000 annually. There are significant synergies with the work that has already been undertaken and reported by OGIA, through its two UWIRs in the Surat CMA, relating to groundwater impacts from P&G activities, which OGIA would leverage should coal mining be included in the Surat CMA.

If a CMA is declared for another region, where no assessment has previously occurred, OGIA will have to undertake regional impact assessment and reporting which will likely cost about \$1.2 million to \$1.7 million annually. This estimate is based on OGIA's experience in the Surat CMA.

Outside a CMA, OGIA has an advisory function relating to groundwater impacts from mining across the state (under section 458 of the Water Act) and maintenance of relevant data and information (under 459 of the Water Act), as is currently the case for P&G tenures. Associated costs for these functions may vary depending upon the scope of the advice, but they are typically expected to be in the range of \$150,000 to \$250,000 annually.

Policy objectives

The policy objectives are that resource tenure holders should meet the costs associated with the management of their rights to take groundwater, and that the levy should equitably apportion the cost of OGIA's activities to tenure holders according to their relative benefit. Further, the levy should be efficient, easy to understand, supported by robust data and cost-effective to administer.

Levy options and analysis

Following preliminary consultation with industry and other stakeholders, a number of options for the levy structure have been generated and evaluated against the stated policy objectives. The identified options are also subject to an impact assessment which considers the potential economic (including competition and compliance), social and environmental impacts which may arise.

In addition to a "no levy" option, two key options are identified each for mining tenure holders inside and outside CMAs.

Option 1 – no mining levy

Under this option, OGIA's costs for carrying out its statutory functions would not be recovered from mining tenure holders. Not having a mining levy would result in cost recovery through appropriation of wider government funds and would likely require legislative changes. A number of stakeholders expressed support for this option, reasoning that their operations might not have a material impact on groundwater, their tenures might not be active or relevant groundwater monitoring activities have been previously undertaken.

Option 1 is found not to be appropriate on the basis that it is against the objective of equitability, does not comply with cost-recovery principles, and could have implications for other state government activities.

This option does not meet the required policy objectives.

Levy structure inside CMAs

OGIA's primary functions relate to CMAs, and include undertaking cumulative impact assessments, management and reporting for the specific mining tenures that are captured by the CMA. Therefore, it is proposed that the levy structure only apply to those specific tenure types that are included in the CMA declared by the Chief Executive of the Department of Environment and Science under section 365 of the Water Act. For example, if the Chief Executive of DES decides to include coal mining tenures in the Surat CMA, then only the coal tenure holders in the CMA will pay the levy. Two options (as outlined in Options 2 and 3) are identified for inside CMAs.

Option 2 – levy based on tenure area within a CMA

Option 2 is to apply the levy based on land tenure area (in hectares) for relevant classes of tenures within a CMA. A class is a group of tenures for which a specific level of effort is required by OGIA in undertaking its assessment, and for which a single levy rate is applied.

Two sub-options are proposed within Option 2:

- Option 2A comprises only one class of tenure—Mining Lease (ML) holders within a CMA (Rate 1).
- Option 2B comprises two classes of tenure holders within a CMA:
 - ML holders (Rate 1); and
 - MDL holders during the active environmental approval process relating to a mining lease (Rate 2).¹

The levy will only apply to MDL holders during the active environmental approval process period as defined in footnote 1. There will be no levy on an MDL holder prior to DES receiving an application for an EIS or EA for a mining lease (as this indicates an intention to commence production). There will also be no levy for MDL holders who have completed the environmental approval processes until such time as when the MLs are granted and the tenure holders are charged Rate 1.

The underlying rationale for applying the levy to MDL holders based on their active environmental approval processes is that if a project for mining is proposed in the CMA, then cumulative impacts from the proposed mining are also required to be assessed and reported as part of the UWIR in a proactive manner. OGIA's assessment may also be referenced or used by proponents in their EISs or EA applications, particularly in relation to cumulative impacts and management arrangements.

¹ The "active environmental process" is defined as:

- the period between when the applicant submits an EIS (relating to a mining lease) to the chief executive under section 47 of the *Environmental Protection Act 1994* (EP Act) and when the administering authority issues the relevant environmental authority (EA) under section 195 of the EP Act; or
- the period from when the Coordinator-General finalises the terms of reference for an EIS under section 30 of the *State Development and Public Works Organisation Act 1971* and when the administering authority issues the relevant EA under section 195 of the EP Act; or
- the period between when an applicant applies for an EA (relating to a mining lease) under Chapter 5, Part 2, Division 3 of the EP Act and when the administering authority issues the relevant EA under section 195 of the EP Act.

If an application for an EIS or EA lapses or is withdrawn, it is no longer an active application.

Rate 1 is expected to be lower than Rate 2, as the ongoing effort required to assess the groundwater impact of ML holders with mature mining operations is likely to be lower compared to MDL holders with active environmental approval processes. However, for a new CMA with greenfield operations, the rates for the two classes are likely to be similar in the initial stages.

The impact analysis suggests that Option 2B efficiently captures the tenure holders that drive OGIA's costs and promotes efficient administration and transparency—the affected ML holders and MDL holders can be clearly identified and classification is performed only once during the EIS/EA process.

Option 2B is closely aligned with the policy objectives.

Option 3 – levy based on volume of associated water extraction within a CMA

Under this option, the levy will apply based on the volume of associated water extracted or projected to be extracted, instead of land area under tenure. In all other ways, the sub-options and classes of tenures are similar to Option 2.

In considering Options 3A and 3B, there are significant practical barriers to using proposed or actual extracted associated water volumes as the basis for applying a levy. This is due to uncertainties in water extraction volume projections, seasonal variabilities in extraction, lack of transparency and administrative complexities. This option does not meet most of the policy objectives.

Levy structure outside CMAs

Outside the CMAs, as with P&G tenures, OGIA has two statutory functions under the Water Act: an advisory function (section 458) to DES on issues relating to groundwater impacts from resource development across the state; as well as maintenance of relevant data and information (section 459).

Costs associated with mining functions outside CMAs is expected to be relatively small, ranging from \$150,000 to \$250,000 annually. Options 4 and 5 below are aimed at recovering the costs related to these functions outside CMAs.

Option 4 – levy based on tenure area outside CMAs

This option is similar to Option 2A in that a single rate will apply based on the area of tenure held (in hectares) for existing ML holders outside the CMA, excluding small-scale mining. Given the large number of MLs across Queensland, implementation of this option would be inefficient for the amount of levy collected and is therefore considered to not meet some of the policy objectives.

Option 5 – flat amount based on associated water take threshold

This option will apply a flat amount to all mining projects that are reporting associated water take above a threshold of 500 megalitres per year. All mining tenure holders are required to report their annual take of associated water above 2 megalitres per year to the Department of Natural Resources, Mines and Energy.

The levy is proposed to be applied on project basis instead of MLs, because mining operations may expand across more than one tenure, involving an integrated infrastructure for extraction of associated water. A flat amount per year is proposed because of the overall small amount that is anticipated to be recovered, and for the simplicity of the application of levy.

The purpose of a separate levy is to ensure that there is no cross-subsidisation between the costs incurred by tenure holders within a CMA and the costs incurred by those tenure holders outside of a CMA. The impact analysis suggests that Option 5 efficiently captures the tenures that drive OGIA's costs and promotes both transparency and administrative efficiency. It is also consistent with the

structure of the P&G levy which incorporates a levy for recovery of costs associated with OGIA's statutory functions outside of a CMA.

This option most aligns with the policy objectives to recover OGIA's mining-related costs outside of a CMA.

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1 Context and purpose of the RIS

1.1 Purpose of this RIS

The purpose of this regulatory impact statement (RIS) is to evaluate a levy structure to fund the Office of Groundwater Impact Assessment's (OGIA) mining-related functions, as required under section 479 of the *Water Act 2000* (Water Act).

The RIS presents options for the levy structure for consultation with stakeholders.

For clarity, this RIS does not include an analysis of the apportionment of the annual levy among petroleum and gas (P&G) tenure holders, as this is already established under section 90 of the *Water Regulation 2016* (Water Regulation), nor does it apply to P&G-related functions or examine the broader framework which establishes OGIA and prescribes its functions.

1.2 Preparation of the RIS

PricewaterhouseCoopers Consulting (Australia) Pty Ltd (PwC) was engaged to develop options for an appropriate levy structure with input from key stakeholders, and to analyse the impact of each option based on preliminary consultation. This RIS is based on that analysis.

In undertaking the financial analysis in the RIS, the estimates of the magnitude of OGIA's mining levy are based on OGIA's experience in undertaking similar work in the Surat cumulative management area (CMA) over the past eight years.

1.3 Underground water rights and obligations

Under Queensland legislation, a resource tenure holder has a limited statutory right to take or interfere with associated water. In this context, resource tenures include mineral development licences (MDLs), mining leases (MLs), authorities to prospect (ATPs) and petroleum leases (PLs).

Associated water is underground water taken or interfered with during the course of, or resulting from, the carrying out of an authorised activity for the tenure. In other words, associated water is a reference to underground water (or groundwater) typically extracted to provide for safe operating conditions for resource extraction (e.g. coal) or to achieve necessary pressure for resource extraction (e.g. coal seam gas (CSG)).

A resource tenure holder's right to take associated water is referred to as an 'underground water right'. This right is limited and subject to a number of obligations on tenure holders included in Chapter 3 of the *Water Act*. These include the requirement for the tenure holders to assess, monitor and manage impacts caused by the exercise of that right, and to make good any impairment of supply to private water bores.

Underground water rights have existed for P&G tenure holders for some time and legislative changes, effective from 6 December 2016, apply these same rights to mining activities that are subject to MLs and MDLs.²

As part of the underground water obligations, tenure holders are required to prepare UWIRs every three years to report groundwater impact assessment and management arrangements. Although the legislative amendments have expanded the underground water management framework to mining

² This was achieved through the *Water Reform and Other Legislation Amendment Act 2014* and the *Environmental Protection (Underground Water Management) and Other Legislation Amendment Act 2016* which amended the *Water Act* and the *Environmental Protection Act 1994*. The changes provide a consistent approach to managing groundwater impacts from both mining and P&G tenures.

activities, there are transitional provisions that apply to mining projects that have proceeded part-way or completely through the mining licence approval process. Those projects will require associated water licences instead of UWIRs.

Existing mining projects will also continue to operate within the water licencing regime and will not be required to prepare UWIRs unless directed to do so by chief executive of DES (or delegate) under section 369A(4) of the Water Act or if the licence or lease is included in a CMA. All future mining projects will be required to prepare UWIRs, unless captured within a CMA.

1.4 Cumulative management framework

In situations where there are two or more resource developments in close proximity, it is difficult for individual tenure holders to assess regional and cumulative groundwater impacts and determine individual tenure holder responsibilities for management arrangements, including monitoring and 'make good' obligations. To ensure a comprehensive cumulative groundwater assessment is completed and to provide clarity on management responsibilities of the involved tenure holders, such an area where impacts may overlap can be declared a CMA the Water Act.

Where a CMA is established, OGIA becomes responsible for preparing three-yearly UWIRs for the whole CMA, taking over the requirement of individual tenure holders to prepare their own UWIRs. OGIA undertakes investigations and regional assessments, establishes management arrangements and identifies responsible tenure holders to implement specific aspects of those management arrangements through the UWIR. OGIA also provides an oversight of the implementation of management arrangements, maintains a database of information and prepares annual updates.

The chief executive of DES (or delegate) is responsible for declaring CMAs. There is currently only one CMA in Queensland, the Surat CMA, which applies to P&G tenures and was declared in 2011 in response to CSG development. DES is currently considering the inclusion of coal mining tenures in the Surat CMA and may also consider CMAs in other regions in the future.

1.5 OGIA

OGIA is an independent entity established under Chapter 3A of the Water Act for the assessment and management of cumulative groundwater impacts from two types of resource development—P&G and mining.

Historically, OGIA's functions only applied to the P&G tenure holders. However, as part of the amendments made to the Water Act to include MLs and MDLs in the underground water management framework in December 2016, OGIA's role has expanded to include mining-related functions.

The three main functions of OGIA under the Water Act are to:

- assess the cumulative impacts on underground water caused by the exercise of underground water rights by resource tenure holders within CMAs including the preparation of UWIRs;
- advise the chief executive of DES on matters relating to impact on groundwater resulting from tenure holders exercising their underground water rights; and
- establish and maintain a database of information regarding underground water.

1.6 Funding for OGIA

Section 479 of the Water Act provides for OGIA to be funded on a cost-recovery basis by an annual levy.

The legislation states that the levy is payable by resource tenure holders and that it should be:

- based on the amount needed to recover the estimated cost of OGIA performing its functions under Chapter 3 of the Water Act in a financial year; and
- apportioned, where practicable, between resource tenure holders or classes of tenure holders according to the cost of OGIA performing functions specific to the tenure holders or groups of tenure holders.

While the provision for the levy is in the Water Act, the structure of the levy is established under the Water Regulation 2016 which currently stipulates the apportionment of the levy amount across P&G tenure holders. The current levy for P&G is structured to be commensurate with the functions that OGIA performs in relation to that sector. The structure of the P&G levy apportions OGIA's costs across three classes of tenures holders. About 92 per cent of the P&G levy is raised from the CSG tenure holders within the Surat CMA and the remainder is raised from conventional P&G tenure holders within and outside the CMA, in line with the level of effort to undertake groundwater impact assessment and management for those group of tenures.

No levy is raised from the mining tenure holders at this stage.

1.7 Process for preparing annual levy budget

OGIA's annual levy amount varies year to year and is based on its budget forecasted prior to a financial year, in line with the proposed work for that financial year. The annual levy is charged in advance, with a contingency. All unspent funds are credited to the levy payers the following financial year, and deducted from the next annual levy invoice.

Under the Water Act, OGIA's budget is prepared by OGIA and approved by the Minister for Natural Resources, Mines and Energy. In accordance with the Water Act provisions, OGIA has also established an advisory body, the Expenditure Advisory Committee (EAC), to consult on OGIA's planned expenditure and costs.

The EAC provides financial transparency to levy payers and community stakeholders. Comprising a chair and five members, the membership of the EAC consists of community and industry representatives and has been structured to balance the interests of the resource industry and the broader community. The EAC meets twice in a year—around May to review and endorse details of OGIA's budget for the next financial year, and around December to review expenditure.

1.8 Scope of the proposed levy structure

This RIS does not apply to P&G-related functions or examine the broader framework which establishes OGIA and prescribes its functions and funding arrangements. The broader functions and provisions for a levy are established through Chapter 3A of the Water Act.

A levy structure for the P&G functions has been in place since 2010. The current RIS evaluates options for a structure for the levy to fund OGIA's mining-related functions which came into effect from 6 December 2016 through amendments to the Water Act.

Although there is not yet a CMA applying to mining tenures, DES is currently considering the inclusion of coal mining tenures in the Surat CMA and may also consider CMAs in other regions in the future.

Under section 334ZP of the *Mineral Resources Act 1989*, ML and MDL holders have been provided a limited statutory right to take associated water. Other tenure types under the *Mineral Resources Act 1989* such as mining claims and exploration permits do not, and as such, the scope of the levy to recover OGIA's mining-related functions is limited to ML and MDL holders only.

1.9 Anticipated cost for OGIA mining-related functions

OGIA's costs are primarily driven by developing UWIRs for CMAs. The majority of OGIA's costs for its current P&G-related activities are direct costs associated with salaries, professional services and equipment, while indirect costs are associated with office accommodation and corporate administration and are a relatively lesser proportion of the overall cost. Employee costs are the largest segment of OGIA's expenditure, reflecting the technical expertise required to perform its functions. A similar pattern is also anticipated for OGIA's mining-related activities, although the magnitude of the levy is likely to be different. Some synergies and efficiencies with P&G related costs are also expected.

For the purpose of providing an indicative magnitude of OGIA's mining levy, costs are estimated based on the anticipated level of effort required. The estimates are broad and preliminary at this stage and are based on OGIA's experience in undertaking similar work in the Surat CMA over the past eight years. Actual costs may vary once a detailed work breakdown is developed at the commencement of technical assessment, and in consideration of complexities that may emerge during the course of undertaking the technical work and developing associated UWIRs.

With the inclusion of coal mining in the Surat CMA, OGIA will need to undertake additional data collection, analysis and groundwater impact modelling for assessing cumulative impacts from coal development and setting management arrangements. OGIA will leverage its existing cumulative impact assessments and tools for the P&G impacts in that process and as a result, the additional work is likely to cost about \$250,000 to \$400,000 annually. This will be apportioned to the relevant classes of mining tenure holders. In comparison, CSG tenure holders in the Surat CMA currently contribute about \$4 million annually.

Should a CMA be declared in other regions, OGIA will have to undertake regional impact assessment. That would involve hydrogeological investigation, development of a conceptual model, springs and connected watercourse assessment, development of a regional numerical groundwater flow model, and development of monitoring and spring impact management strategies to prepare an UWIR. The associated cost for this work in a new CMA may range from \$1.2 million to \$1.7 million annually. As stated previously, the costs may vary if additional complexities are encountered in developing the UWIR.

OGIA has a statutory advisory function (section 458 of the Water Act) relating to groundwater impacts from mining outside a CMA and maintenance of relevant data and information across the state (section 458 and 459 of the Water Act). Associated costs for these functions may vary depending upon the scope of the advice, but are typically expected to be in the range of \$150,000 to \$250,000 annually.

1.10 Objectives of government action

The proposed structure for the mining sector levy is intended to align with existing guidelines and legislation, such as the Australian Government Cost Recovery Guidelines and Queensland Treasury's Principles for Fees and Charges. This is expressed in five overarching objectives that are applied in developing and evaluating the options presented in this RIS.

1. Efficient cost recovery – Costs should be recovered at the level of efficient costs for undertaking OGIA's groundwater assessment and management activities for mining developments.
2. Efficient administration – The recovery arrangement and administration must be efficient and practical, such that the cost of implementing the levy should not exceed the benefit of doing so.
3. Transparency – The basis for the levy structure should be clear and readily accessible to industry stakeholders. Additionally, there must be a clear link between the cost of the activities and the charges imposed for those activities.
4. Equitability – The cost of activities should be recovered directly from beneficiaries of (or the users causing the need for) the activity.
5. Consistency – The design of the mining levy structure is intended to be consistent with the broad structure of the levy used for OGIA's P&G-related functions.

2 Consideration of options and impact analysis

This section presents options generated for the levy structure. These options are evaluated against the stated policy objectives and are also subject to impact assessment considering the potential economic (including competition and compliance), social and environmental impacts which may arise. None of the options are likely to lead to social or environmental impacts, because the proposed levy structure only affects the specific resources tenure holders who directly benefit from OGIA's functions in relation to impacts on groundwater from mining activities.

2.1 Options for levy structure

Based on advice from industry, application of principles outlined in Section 2 and follow-up analysis, a number of options are generated. Options are presented separately for inside and outside CMAs, given the distinct functions and associated cost drivers. Two options each are identified for inside and outside CMAs, as summarised in Table 1. Other options were also considered, but were not found to be practicable for various reasons. However, for completeness, those other options are discussed briefly in Section 3.3.

Table 1 – Options for possible levy structures for OGIA's mining-related activities

Option	Description
Option 1 – no mining levy	No levy is applied.
<i>Inside a CMA</i>	The levy is applicable to those tenures to which the CMA applies – for example, a CMA may only apply to coal tenures.
Options 2A and 2B – levy based on tenure area inside a CMA	Levy rates calculated based on tenure areas for two classes of tenures in each CMA – ML holders (Rate 1) and MDL holders with active environmental approval processes for EISs or EAs for a mining lease (Rate 2).

Options 3A and 3B – levy based on volume of associated water extraction inside a CMA	Levy rates calculated based on volume of associated water for the same two classes of tenures as in Option 2.
<i>Outside CMA</i>	The levy is applicable to ML holders only
Option 4 – single rate levy based on ML area outside a CMA	Levy rates calculated based on tenure areas for ML holders outside a CMA excluding the small-scale mines (Rate 1).
Option 5 – Flat rate levy based on threshold of reported associated water extraction	A flat rate based on a threshold of 500 megalitres/year of reported associated water take by a mining project.

2.1.1 Option 1 – no mining levy

With changes to the Water Act that commenced in December 2016, OGIA is required to perform groundwater impact management functions for the mining industry where a CMA is declared or where DES requires relevant advice. Not having a mining levy would require funding from consolidated revenue or cross-subsidisation from the P&G levy to cover the performance of these functions.

Under this option, the cost of performing OGIA’s mining-related functions would not be recovered from mining tenure holders. A number of stakeholders expressed support for this option, reasoning that their operations might not have a material impact on groundwater, their tenures may not have active mining operations or relevant groundwater monitoring activities were previously undertaken.

Section 479 of the Water Act specifies that OGIA is to be funded on a cost-recovery basis by an annual levy only. The legislation states that the levy is to be paid for by resource tenure holders, based on the amount needed to recover the estimated cost of OGIA performing its functions and apportioned between resource tenure holders. Funding OGIA from consolidated revenue would likely require legislative amendments.

Impact assessment – Option 1 – no mining levy

Economic impact

If coal mining tenures are included in the Surat CMA, \$0.25m to \$0.40m per annum will need to be met by government funding. If a CMA is declared in an area where no assessments have previously been undertaken, \$1.2m to \$1.7m per annum will need to be met by government funding to undertake those functions.

OGIA also has a statutory function relating to groundwater impacts from mining outside CMAs. It is anticipated that costs of \$0.15m to \$0.25m annually will be incurred.

Not having a mining levy means OGIA’s above mining costs will be met by government funds and/or costs recovered from P&G tenure holders.

Section 479 of the Water Act does not allow for the costs of OGIA’s activities to be funded by government, and legislative amendments would likely be required to enable this option.

Mining tenure holders within a CMA will receive the benefit of OGIA undertaking cumulative impact assessment without paying for OGIA’s activities. It is inequitable for these costs to be recovered from parties that do not directly benefit from the work undertaken by OGIA.

Competition impact

This option is not expected to restrict competition in the mining or P&G sectors, consistent with clause 5 of the Competition Principles Agreement.

Compliance costs

Compliance costs under this option will be negligible.

Social impacts

There are no direct social or community impacts associated with this option.

Environmental impacts

There are no direct environmental impacts associated with this option.

Levy structure inside a CMA

OGIA's primary function inside a CMA will be to undertake cumulative impact assessment, management and reporting for the specific mining tenures that are included within the area of the CMA. As a result, the levy will also only apply to those tenure types that are included in the CMA. For example, if coal mining tenures are included in the Surat CMA, then only the coal tenure holders will pay the levy.

Two options are identified for the levy within a CMA – Option 2 is based on tenure area; and Option 3 is based on the volume of associated water taken by the tenure holders.

2.1.2 Option 2 – levy based on tenure area within a CMA

The levy rate will be derived annually by dividing OGIA's annual mining-related budget by the total land area for a class of tenure in a CMA (in hectares). Only those tenures to which the CMA applies will be used in the calculation – e.g. if only coal tenures are included in the CMA, then only the area for coal MLs and relevant MDLs will be used in the calculation. Individual tenure holders will then be charged by multiplying their total tenure areas by the corresponding rates. Accounts will be reconciled at the end of each financial year and any unused part of the levy will be refunded back to the tenure holders.

A key element of this option is the identification of relevant tenure classes based on:

- tenures to which the CMA applies which affect statutory obligations for groundwater assessment and management; and
- the status of environmental approval processes for MDLs.

OGIA has no direct role in environmental approval processes. However, if a mining project is proposed within a CMA, then cumulative impacts from the project will be assessed and reported proactively as part of the UWIR. OGIA's modelling outputs, data, monitoring and management arrangements may be used by proponents to meet various Queensland and Australian Government legislative requirements—both as part of the EA application and/or EIS process as well as supporting compliance against the approval conditions at the project execution stage.

Two sub-options are proposed within Option 2:

- Option 2A comprises only one class of tenure – ML holders within a CMA (Rate 1).
- Option 2B comprises two classes of tenure holders within a CMA:
 - ML holders (Rate 1); and

- MDL holders during the active environmental approval process relating to mining leases (Rate 2).³ Error! Bookmark not defined.

Option 2A – levy on only ML holders within a CMA

Option 2A proposes a single rate applied to the area of tenure held (in hectares) for only existing ML holders to which the CMA applies (Rate 1). There will be no charge for other mining activities within or outside a CMA, including MDL holders. In the event that there is more than one declared CMA, each CMA will have a different rate to reflect the commensurate level of OGIA's effort for that CMA.

This sub-option promotes efficient administration and transparency as ML holders can be clearly identified through tenure records held by the Department of Natural Resources, Mines and Energy (DNRME). However, this sub-option does not capture MDL holders with active environmental approval processes, which will drive a significant portion of OGIA's activities in groundwater impact assessments. As a result, within a given CMA, ML holders will be cross-subsidising MDL holders for work undertaken by OGIA in assessing impacts from their proposed mining activities.

Option 2B – differential levy for ML holders and MDL holders with an active environmental approval process

Option 2B proposes that the levy be apportioned across two classes of tenure holders, namely ML holders and those MDL holders undertaking environmental approval processes for commercial mining. This is because the level of effort for the two classes of tenures may vary at different stages of assessments. There will be no levy for MDLs that are not subject to environmental approval processes for a mining lease.

On this basis, there will be two rates in each CMA:

- Rate 1 – single rate per hectare for ML holders within a CMA; and
- Rate 2 – single rate per hectare for MDL holders within a CMA with active environmental approval processes (EIS or EA) relating to MLs.³

The underlying rationale for applying the levy to MDL holders based on their active environmental approval processes is that if a mining project is proposed in a CMA, cumulative impacts from the project are assessed and reported as part of the UWIR in a proactive manner. The assessment also benefits the proponents as it provides a benchmark that may be referenced or used in project-specific EIS and/or EA applications, particularly in relation to cumulative impacts and regional management arrangements. Such has been the case in the Surat CMA for CSG proponents.

³ The "active environmental process" is defined as:

- the period between when the applicant submits an EIS (relating to a mining lease) to the chief executive under section 47 of the Environmental Protection Act 1994 (EP Act) and when the administering authority issues the relevant environmental authority (EA) under section 195 of the EP Act; or
- the period from when the Coordinator-General finalises the terms of reference for an EIS under section 30 of the State Development and Public Works Organisation Act 1971 and when the administering authority issues the relevant EA under section 195 of the EP Act; or
- the period between when an applicant applies for an EA (relating to a mining lease) under Chapter 5, Part 2, Division 3 of the EP Act and when the administering authority issues the relevant EA under section 195 of the EP Act.

If an application for an EIS or EA lapses or is withdrawn, it is no longer an active application.

Rate 2 would cease to apply to MDL holders once the environmental approval processes are completed, until such time as when the MLs are granted and the tenure holders are then charged Rate 1. This reflects that no further assessments need to be undertaken on the MDL by OGIA between the time EAs are granted to MDL holders and when the MLs are granted.

In an existing CMA, Rate 1 is expected to be lower than Rate 2 as the technical complexity and ongoing effort required to assess the groundwater impact of ML holders with mature mining operations is likely to be lesser compared to the MDL holders with active environmental approval processes where data and analytical work must be established. For a new CMA with greenfield operations, the rates for the two classes are likely to be similar at the initial stages, but Rate 1 (for MLs) may drop back over time as mining operations and the impact assessment matures.

This sub-option efficiently captures the tenure holders that drive OGIA's costs and promote both efficient administration and transparency—the affected ML holders and MDL holders can be clearly identified and classes are assigned during the environmental approval process. The levy will be calculated so that the rate reflects the level of work undertaken by OGIA in fulfilling its statutory functions. This option is also partially consistent with the P&G levy structure which factors in EIS approvals for ATP holders.

Of the two sub-options, Option 2B is more closely aligned with the policy objectives and is analysed further below.

Impact assessment – Option 2B – differential levy for ML holders and MDL holders with active environmental approval processes

Economic impact

With the proposed inclusion of coal mining tenures in the Surat CMA, tenure holders will receive the benefit of OGIA's assessment.

\$0.25m to \$0.40m will be recovered from eligible ML holders and MDL holders in the Surat CMA. It is anticipated that there will be relatively lower rates for existing ML holders and higher rates for MDL holders with active environmental approval processes for commercial mining.

If a CMA is declared in another region, OGIA must develop an UWIR. Tenure holders will likely accrue long-term benefits of having an independent region-wide assessment of cumulative groundwater impacts. An estimated \$1.2m to \$1.7m will be recovered from ML holders and MDL holders within a CMA each year.

Industry will also receive direct benefit from OGIA's independent cumulative and regional assessment which may be referenced by the industry in meeting its various state and federal environmental approval and water licence conditions. Such has been the experience for the CSG industry in the Surat CMA.

In each scenario, the total levy, when divided across all eligible tenure holders, will be small in proportion to overall expenditure typical of the large mining projects in the areas that are being considered by DES for a CMA.

It is considered that the proposed levy will not have significant impact on the profitability of tenure holders, nor the viability of the mining projects.

Competition impact

This regulation is not expected to restrict competition in the mining or P&G sectors, consistent with clause 5 of the Competition Principles Agreement. The reasons for this are as follows:

The scale of the annual levy for individual mining tenure holders within a declared CMA is negligible in comparison to the annual operating expenditure of a typical mine.

As noted in the *Post Implementation Review of the Industry Levy to fund the petroleum and gas water functions of the Office of Groundwater Impact Assessment*, stakeholders commented that

“the work of OGIA in some instances had allowed them to significantly reduce the resourcing/activities they previously applied to groundwater activities.”

All identified mining activities and operators within a given CMA will be subject to the levy. Mining operations or mineral types not identified in the CMA declaration will not be subject to the levy.

Compliance costs

Compliance costs under this option relate to the costs which are incurred by OGIA in administering the levy, and the costs to mining tenure holders in administering payments to OGIA.

Compliance costs for OGIA are likely to be slightly higher than Option 1. Staff and processes relevant to P&G levy compliance may be utilised for raising the mining levy. This will involve an extension to the role of current positions, administration of the financial model for calculating charges under the levy and amounts payable by mining tenure holders, preparation of invoices to mining tenure holders, and additional administration of the EAC. These additional costs specific to the administration of the levy will be absorbed.

Compliance costs for ML holders and MDL holders are not likely to change significantly relative to a situation with no mining levy. This is because the collation and analysis of tenure data will be carried out by OGIA and invoicing for the levy will be received annually for processing by the accounts payable function.

Social impacts

There are no direct social or community impacts associated with this option.

Environmental impacts

There are no direct environmental impacts associated with this option.

2.1.3 Option 3 – levy based on volume of associated water extraction within a CMA

Under this option, the levy would be applied to relevant tenure holders, to which the CMA applies, based on the volume of actual or predicted associated water extraction. This is because the volume of extraction of associated water drives groundwater impacts, even though the scale of impacts and complexity of assessment does not necessarily correlate with the actual amount of water extracted.

Legislative changes made to the Water Act in December 2016 require all mining tenure holders to report their annual take of associated water where such take is more than 2 megalitres/year to DNRME. Associated water is groundwater that is extracted to provide for safe operating conditions for resource operations (such as coal).

The classes of tenure will be similar to the sub-options presented in Option 2.

Option 3A – levy on ML holders within a CMA

Similar to Option 2A, this sub-option proposes a single rate for existing ML holders within a CMA, however the levy would be divided by the volume of extracted associated water per year.

Although this option does promote the concept of individual groundwater impact, it does not support efficiency or transparency. This option may also be difficult to administer due to variability in measurements and auditing requirements for annual water extraction volumes.

Option 3B – differential levy for ML holders and MDL holders with an active environmental approval process

Similar to Option 2B, this sub-option proposes that the levy be apportioned across two classes of tenure holders, as the level of effort for the two classes of tenures may vary at different stages of assessments. However, the levy rate would be derived using the actual volume of extracted associated water per year or predicted take of associated water per year.

There will be two classes of tenure holders in each CMA, namely ML holders and MDL holders with active environmental approval processes for a mining lease.

On this basis, there will be two rates in each CMA:

- Rate 1 – single rate per megalitre of associated water extracted per year for ML holders within a CMA; and
- Rate 2 – single rate per megalitre of proposed (or predicted) associated water extracted per year for MDL holders within a CMA undergoing active environmental processes for commercial mining leases (Rate 2).^{Error! Bookmark not defined.}

There are significant obstacles in using predicted and/or actual extracted associated water volume as the basis for applying a levy. These obstacles include that:

- Impact assessments must be carried out prior to the commencement of mining operations and large-scale water extraction. Therefore, if actual (operational) extraction volumes are used, the levy cannot be applied until the mine is fully operational, or can only be applied to an ML when in operation.
- The mine water volume of associated water extracted varies significantly over time. Mine pit dewatering may also include surface water and flood inflows.
- Alternatively, projected volumes might be used for projects in the approval phase; however, these projections are subject to change depending upon underlying assumptions. They would also need to be later reconciled with actual operational volumes which would substantially increase the administrative complexities, and can also potentially lead to cross-subsidisation between tenure holders and may be open to dispute.
- If extracted volumes are nil in a given year, no levy will be charged to tenure holders. This would create budget uncertainties for OGIA and other tenure holders who may still be extracting the same amount of water but end up paying a relatively higher levy for the year.

Of the two sub-options, Option 3B is more closely aligned with the policy objectives in Chapter 2 and has been selected for further analysis below.

Impact assessment – Option 3B – differential levy for ML holders and MDL holders with active environmental approval processes

Economic impact

Economic impacts are similar to Option 2 and are re-iterated here for completeness. The key difference is that although the total levy amount will be the same, the actual levy paid by individual tenure holders will be different. A higher amount will be paid by those who extract or propose to extract relatively higher volumes of associated water compared to other tenure holders in the same CMA.

With the proposed inclusion of coal mining in the Surat CMA, mining tenure holders will receive the benefit of OGIA's assessment. \$0.25m to \$0.40m will be recovered from ML holders and relevant

MDL holders. It is anticipated that there will be relatively lower rates for existing ML holders and higher rates for MDL holders with active environmental processes for commercial mining.

If a CMA is declared for another region, then OGIA will develop an UWIR. Tenure holders will likely accrue long-term benefits of having an independent and publically available region-wide assessment of cumulative groundwater impacts. \$1.2m to \$1.7m will be recovered from ML holders and relevant MDL holders each year.

Industry will also receive direct benefit from OGIA's independent cumulative and regional assessment which may be referenced by the industry in meeting its various state and federal environmental approval and water licence conditions. Such has been the experience for the CSG industry in the Surat CMA.

In each scenario, the total levy, when divided across all eligible tenure holders, will be small in proportion to overall expenditure typical of the large mining projects.

It is considered that the proposed levy will not have significant impact on the profitability of tenure holders, nor the viability of the mining projects.

Competition impact

This regulation is not expected to restrict competition in the mining or P&G sectors, consistent with clause 5 of the Competition Principles Agreement. The reasons for this are as follows:

The scale of the annual levy for individual mining tenure holders within a declared CMA is negligible in comparison to the annual operating expenditure of a typical mine.

As noted in the *Post Implementation Review of the Industry Levy to fund the petroleum and gas water functions of the Office of Groundwater Impact Assessment*, stakeholders commented that "the work of OGIA in some instances had allowed them to significantly reduce the resourcing/activities they previously applied to groundwater activities."

All eligible mining operators within a given CMA area will be subject to the levy.

Compliance costs

Compliance costs under this option relate to the costs which are incurred by OGIA in administering the levy, and the costs to mining tenure holders in administering payments to OGIA.

Compliance costs for OGIA are likely to be substantially higher compared to Option 2, due to additional administration required in keeping track of extracted associated water volumes—particularly where projected water volumes are used—and to maintain a level of transparency.

Staff and processes relevant to P&G levy compliance may be utilised for raising the mining levy. However, this will involve an extension to the current administrative staff to update the financial model for calculating charges and amounts payable by mining tenure holders under the levy, and additional administration of the EAC. These additional costs specific to the administration of the levy will be absorbed.

Social impacts

There are no direct social or community impacts associated with this option.

Environmental impacts

There are no direct environmental impacts associated with this option.

Levy structure outside a CMA

Outside CMAs, OGIA has two functions under section 458 and 459 of the Water Act: (1) an advisory function to DES on issues relating to groundwater impacts from resource development across the state; and (2) maintenance of relevant data and information, as is the case for P&G tenures outside the Surat CMA. Costs associated with such functions outside CMAs are expected to be relatively small, ranging from \$150,000 to \$250,000 annually.

Outside a CMA, a levy is proposed to apply to ML holders other than small-scale mining activities which are defined in schedule 4 of the *Environmental Protection Act 1994* (EP Act).

2.1.4 Option 4 – levy based on tenure area outside CMAs

This option is similar to Option 2A in that a single rate will apply to the area of tenure held (in hectares) for existing ML holders, but different because the tenures considered will be those outside the CMA. Small-scale mining is excluded in this option.

Currently, there are about 95 mining leases in Queensland excluding the small-scale mining activities which are defined under schedule 4 of the EP Act. Therefore, implementation of the option will be inefficient for the amount of levy collected.

2.1.5 Option 5 – flat amount based on associated water take threshold

This option will apply a flat amount to all mining projects that are reporting associated water take above a threshold of 500 megalitres per year. Extraction of associated water drives groundwater impacts, even though the scale of impacts and complexity of assessment do not necessarily correlate with the actual amount of water extracted.

The levy is proposed to be applied on a project basis, because mining operations may expand across more than one ML, involving integrated infrastructure for the extraction of associated water. A mining project will consist of one or more mining tenures that includes a mining license, or a mining development license, if authorised activities for the tenure/s are or will be carried out as a single integrated operation under one environmental authority. A flat amount per year is proposed because of the small amount that is expected to be recovered, and for the simplicity of the application of levy.

A project will be subject to the levy if the average of the annual volume of associated water extracted by a project in the previous three years exceeds 500 megalitres as reported under section 334ZP (5) of the *Mineral Resources Act 1989*. The 500 megalitres threshold has been identified through analysis of reported associated water volumes.

The 500 megalitres threshold captures large associated water producers whilst limiting the administrative burden of apportioning the levy across many more mine projects that would be subject to the levy if a lower volumetric threshold is used. Averaging the volumes over three years helps to avoid year to year fluctuations that may occur, thus providing greater certainty to levy payers. Based on current reporting, it is anticipated that this levy would apply to about 30 projects with a flat amount of between approximately \$5,000 and \$10,000 per project per year.

Impact assessment – Options 4 & 5 – Levy on ML holders outside of a CMA

Economic impact

Between \$0.15m and \$0.25m will be recovered from ML holders.

The total levy, when divided across all eligible tenure holders, will be small in proportion to overall expenditure typical of the large mining projects that will attract the levy.

It is considered that the proposed levy will not have significant impact on the profitability of tenure holders, nor the viability of the mining projects.

Competition impact

This regulation is not expected to restrict competition in the mining or P&G sectors, consistent with clause 5 of the Competition Principles Agreement. The reason for this is that the scale of the annual levy for individual mining tenure holders outside of a declared CMA is negligible in comparison to the annual operating expenditure of a typical mine.

Compliance costs

Compliance costs under this option relate to the costs which are incurred by OGIA in administering the levy, and the costs to mining tenure holders in administering payments to OGIA.

Compliance costs for OGIA are likely to be minimal, given the administrative simplicity of the levy and the number of tenure holders to which it will apply. Staff and processes relevant to P&G levy compliance may be utilised for raising the mining levy. This will involve an extension to the role of current positions, administration of the financial model for calculating charges under the levy and amounts payable by mining tenure holders, preparation of invoices to mining tenure holders, and additional administration of the EAC.

Compliance costs for ML holders and MDL holders are not likely to change significantly relative to a situation with no mining levy. This is because the collation and analysis of tenure data will be carried out by OGIA and invoicing for the levy will be received annually for processing by the accounts payable function.

Social impacts

There are no direct social or community impacts associated with this option.

Environmental impacts

There are no direct environmental impacts associated with this option.

2.2 Other options considered

The following options were raised by stakeholders during preliminary consultation meetings. However, significant practical and legislative factors limit all of these options and make further development and implementation impracticable. For these reasons, no further consideration of these options has been undertaken in the RIS. The options are presented here for completeness only.

Void area

A levy based on the void area or spoil area of one or more mining projects within a tenure. This option does not support efficient administration or transparency as void area or spoil area can fluctuate significantly over time, is difficult to quantify on an effective basis for any year and, if applied, would make administration of the levy difficult. Due to this, calculation of the levy may also be open to dispute.

Actual or modelled groundwater impact

A levy based on the area of actual or modelled groundwater impact. This option is somewhat similar to Option 3 but has a higher level of complexity because modelled impacts vary over time, are subject to variations in mine development plans and actual impacts do not occur until much later. The option does not support efficient administration or transparency.

Number of mining projects

A levy based on the number of projects a company has in operation over a tenure. This option was raised by one stakeholder during consultation who supported it for administrative ease. This option promotes greater transparency as the information about the number of projects is publically available. However, it does not support efficient administration as the projects may span multiple tenures and it may be difficult to determine and apply the appropriate rate to each project. In order to achieve

equitability, more than one rate may need to apply to a project with parts in different tenures and this is administratively infeasible.

Number of tenures held

A levy based on the number of tenures a company has in its portfolio. This option promotes efficient administration and transparency as the number of tenures can be readily obtained for each company. However, it does not support equitability as tenure size varies and the potential for current and future groundwater impact is not proportional to the number of tenures. This option is also inconsistent with the P&G levy as rates cannot be scaled in a consistent way for all tenures. Rates will need to be scaled by the level of OGIA's effort per tenure, an administratively complex exercise susceptible to cross-subsidisation.

3 Consultation

Preliminary consultation was undertaken with a wide range of stakeholders from the mining industry and the Queensland Government as part of the preparation of this RIS. Consultation took place between July and August 2017. Feedback was sought on potential impacts on stakeholders and considerations in applying a levy for consideration in the development of options for an appropriate levy structure.

The following common themes emerged through the consultation meetings. Through the development and analysis of options in the RIS, DNRME has endeavoured to address these matters.

1. Equitability—there were concerns raised that the costs of the establishment of a CMA and the inaugural UWIR may fall unfairly on the “first mover” tenure holders while later developers would avoid the costs of the model development and initial assessment.
2. Cross-subsidisation—there should be clear cost allocation where possible between P&G, mining and common functions.
3. Clarification should be provided in regards to how the separate P&G and mining levies will apply to overlapping tenures. For example, how the levy would apply to mining tenures that operate in the Surat CMA (currently specific to P&G) if coal mining is included in the Surat CMA.
4. Mining industry stakeholders should be invited to participate in the EAC to allow better transparency of the costs and how the levy is allocated.
5. Where possible, the new mining levy structure should be consistent with the existing P&G levy.
6. There were uncertainties raised around tenures that are outside but bordering a CMA and how much they contribute to cumulative groundwater impacts.
7. Industry stakeholders raised the fact that certain mining activities do not necessarily impact on groundwater and were interested to know how the levy they are liable to pay will be used.

There was also more general feedback on the application of the regulatory framework to mining activities. Many of these questions and concerns were addressed during the consultation sessions:

1. A number of stakeholders did not have a clear understanding of the new regulatory framework under Chapter 3 of the Water Act, OGIA's expanded functions for the mining sector and how this would support fulfilment of other regulatory obligations of the tenure holders, such as the Australian Government's *Environment Protection and Biodiversity Conservation Act 1999* approval conditions.
2. There were broad questions around the nature of a CMA and the process that results in its declaration.
3. Questions were asked about what groundwater assessment work would be required by tenure holders that have completed the EIS and/or EA processes.
4. One stakeholder voiced concern that OGIA's activity is limited to only P&G and mining activities and not to other industries such as agriculture which can also have groundwater impacts.
5. Some stakeholders voiced their appreciation for the role OGIA plays in providing the P&G industry with a 'social licence'.
6. Two mining stakeholders showed support for the regional, long-term assessment of groundwater impact OGIA would provide.

It is intended that formal public consultation on the Consultation RIS will be from 17 June 2019 to 15 July 2019. Based on consultation and submission on this consultation RIS, a Decision RIS will subsequently be developed.

4 Conclusion and recommended options

The purpose of this RIS is to outline options for the structure of a levy to fund OGIA's mining-related activities and summarise the outcomes of the analysis of those options. This RIS assessed the proposed options against the stated policy objectives for the levy structure, and also considered the economic (including competition and compliance), social and environmental impacts which may arise.

Inside a CMA

Overall, it was found that Option 2B—differential rates based on land tenure area for ML holders and MDL holders with active environmental approval processes for commercial mining—be recommended for adoption. This option will efficiently recover OGIA's costs from the relevant tenure holders for its mining-related functions with efficient administration and transparency. Under this option, the charges set under the levy reflect the actual costs incurred by OGIA in undertaking assessment and management activities within any future CMAs for MDL holders and ML holders of specific mining activities that are called in by the CMA. As such, there is a high degree of alignment with the government's policy objectives that the levy should fairly apportion OGIA's costs to tenure holders and that these tenure holders should meet the costs associated with the management of their rights to take groundwater.

Option 2B is structured to minimise complexity and limit administrative burden, specifically by applying one charge to ML holders and limiting the charge for MDL holders to those that have active environmental approval processes.

It was found that other options did not meet some or all of the policy objectives for the regulation and were therefore not recommended.

Option 1 is not appropriate on the basis that it is against the objective of equitability and is not consistent with the legislation. OGIA's functions within a CMA, where mining tenure holders are the beneficiaries, should not be paid for by anyone else or cross-subsidised by P&G tenure holders.

Option 2A promotes efficient administration and transparency as ML holders can be clearly identified through tenure records held by DNRME. However, this sub-option does not capture MDL holders with active environmental approval processes, which will drive a significant portion of OGIA's activities in groundwater impact assessments and analysis of management arrangements. As a result, within a given CMA, ML holders will be cross-subsidising MDL holders for work undertaken by OGIA in assessing impacts from their proposed mining activities.

There are significant obstacles in implementing Options 3A and 3B using extracted associated water volume as the basis for applying a levy. These relate to uncertainties and variabilities associated with actual or proposed volumes of extracted water, which may potentially result in wide variations in levy payable, and frequent corrections.

While under all of the options except for option one, relevant classes of mining tenure holders will be required to pay the levy, the impact assessment did not identify significant negative economic (including competition), social or environmental impacts associated with any option. Under some of the options, there will however be material changes in compliance costs. A number of direct economic benefits were also identified, including probable cost savings for mining tenure holders.

Outside a CMA

The impact analysis suggests that Option 5—the option of a flat-rate annual levy for ML holders outside of a CMA extracting associated water above a reported volumetric threshold—efficiently captures the tenures that drive OGIA's costs, promotes transparency and administrative efficiency, and is consistent with the structure of the P&G levy which also incorporates a levy for recovery of costs associated with activities outside of a CMA. This option aligns with the policy objectives and is recommended.

5 Consistency with fundamental legislative principles

The *Legislative Standards Act 1992* requires that legislation has sufficient regard to rights and liberties of individuals and the institutions of Parliament. The proposed levy framework is consistent with these fundamental legislative principles.

6 Implementation, compliance support and evaluation strategy

6.1 Implementation

The levy structure for OGIA's mining-related functions will be established in Part 7 of the Water Regulation 2016.

Similar to the P&G levy implementation, the mining sector levy is proposed to be set at the beginning of each financial year based on OGIA's approved mining-related budget for that year and the size (per hectare) of each tenure area as specified in tenure rents as of 1 July for that year. Underspent funds are credited back to tenure holders at the following financial year and deducted from their next financial year invoice.

The General Manager of OGIA would send a notice to the relevant mining tenure holders as soon as practicable after 1 July each year.

In a year that a new CMA is declared by the chief executive of DES (or delegate), the mining sector levy is proposed to be set from the date that the declaration comes into effect. The levy would be based on OGIA's approved mining-related budget for the remaining period within that financial year, and the size (per hectare) of each tenure area as specified in tenure rents as of the date of the CMA declaration. It is likely that this would require an extraordinary meeting of the EAC.

6.2 Levy and budget administration

Budget approval

The Water Act provides that OGIA consult with the EAC on the development of its budget. The EAC comprises a chair and five members and consists of community and industry representatives. Following the EAC's endorsement of the budget, the Minister for Natural Resources, Mines and Energy approves OGIA's budget and the annual charges set under the industry levy.

Invoicing

It is proposed that the issuing of the mining levy invoices will be managed in exactly the same way as the P&G levy invoices. The Water Act currently provides that an annual levy is set at the beginning of each financial year. In practice, for the administration of the P&G levy, this means that an annual invoice is provided to tenure holders as soon as practicable after 1 July. Underspent funds are credited back to tenure holders at the following financial year and deducted from their next financial year invoice.

Post-implementation review

Consistent with the establishment of the P&G levy and the Australian Government Cost Recovery Guidelines, a Post Implementation Review of the mining functions levy structure will be undertaken. For administrative efficiency, the Post Implementation Review will occur at the same time as the review of the petroleum and gas levy structure. This is due to occur in 2021.

OGIA will also monitor and report on the efficacy of the levy to the EAC on an annual basis.