

VICTORIAN GEOTHERMAL ENERGY RESOURCES BILL*

The *Geothermal Energy Resources Bill 2004 (Vic)* ('the Bill') was introduced to the Victorian Parliament in November last year. The purpose of the Bill is to create a framework to facilitate and regulate the exploration and extraction of geothermal energy resources in Victoria.

The Bill aims to attract and support large-scale commercial exploration and development of Victoria's geothermal energy resources. Regulations will exempt from the operation of the Bill, small-scale or localised uses of geothermal energy which do not significantly diminish geothermal energy.

Geothermal legislation has already been introduced in Queensland and South Australia.

What is geothermal energy ?

Geothermal energy is heat energy derived from deep within the earth. The heat is stored in either subterranean water bodies or in the various geological layers that make up the earth.

Legislative overview:

The framework for the Bill is based on an existing model established under the *Petroleum Act 1998 (Vic)*. The Victorian Government has said that this model was adopted because operations associated with exploring and extracting geothermal energy, primarily drilling deep within the earth, are similar to petroleum operations.

In his second-reading speech to Parliament, Bob Cameron, Minister for Agriculture, noted that the Bill establishes property rights over geothermal energy and resources within particular areas; 'This will allow the Government to grant a party exclusive rights to resources in a specific area for exploration and development.' The Bill establishes three different 'titles' (which are intended to be flexible as to the duration, size and conditions):

- an exploration permit;
- a retention lease where resources have been discovered but cannot as yet be commercially extracted; and
- an extraction licence.

Furthermore, the Bill enables the Government to set a royalty for resources and provides for allocation of the resource:

- By tender, where the Government wishes to test the market and harness competitive forces to optimise investment; and
- By application from interested parties, for rights to retain or extract geothermal resources in a given area.

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The Bill also makes provision for consultation with a range of public and private entities and landowners, to assess the impact, such as environmental and archaeological, of proposed activities on certain areas.

Intended benefits of the Bill:

The Victorian Government has suggested that benefits flowing from the Bill will include:

- investment in a new emerging energy industry;
- use of a clean, renewable and reliable energy resource; and
- development, especially in rural and regional Victoria, securing further sources of energy to the state's diverse energy supplies.

The Bill is currently before the Victorian Parliament, and if passed, is expected to come into operation before July 2006.

CONSENT OF OWNER TO WORK

Tech-Sol Resources PL v Minister for Energy Industries and Resources [2004] VCAT 1648

Surface rights – breach of buffer zone – consent does not run with land – consent of former owner

Background facts

In December 2003, Tech-Sol Resources PL (Tech-Sol) lodged, pursuant to section 110(4) of the *Mineral Resources Development Act 1990* (Vic) ('the Act'), two applications with the Victorian Civil and Administrative Tribunal (VCAT) seeking that it review the Minister's decision to serve Tech-Sol with notices under section 110(2) of the Act. In these notices it was alleged that Tech-Sol had breached section 45(1) of the Act in relation to work carried out under licence near Crown Allotments 16 and 20, and Crown Allotment 6 in the Mount Edgerton area. Section 45(1) restricts the work that licensees can undertake within 100 metres of the likes of a dwelling house or garden, unless the consent of the owners and occupiers has first been obtained. In the event of alleged breach the Minister, as it did here, can issue a notice to licensees and seek that they take remedial action such as reinstating the 100m buffer zone.

In determining these applications, Senior Member Ball had cause to interpret section 45 of the Act and in doing so addressed pertinent issues such as whether consent under section 45(2) runs with the land, whether consent can be withdrawn and whether a conditional consent is of any effect.