

QLD Water Act 2000 “Make Good”	Adani Water License
<p>410 Who must comply with make good obligations</p> <p>The responsible tenure holder for a water bore must comply with the make good obligations for the bore</p>	
<p>Division 2 Bore assessments Subdivision 1 Preliminary 411 What is a <i>bore assessment</i></p> <p>A <i>bore assessment</i> is an assessment of a water bore undertaken by a resource tenure holder to establish—</p> <p>(a) whether the bore has an impaired capacity; or</p> <p>(b) whether the bore is likely to start having an impaired capacity.</p> <p><i>Note—</i></p> <p>Undertaking a bore assessment includes analysing data obtained during the assessment to establish the matters in paragraphs (a) and (b).</p>	<p>9. The bore assessment undertaken by the Licensee must establish: (a) whether the bore has an impaired capacity; or (b) whether the bore is likely to start having an impaired capacity.</p>
<p>412 When does a water bore have an <i>impaired capacity</i></p> <p>(1) An existing water bore has an <i>impaired capacity</i> if—</p> <p>(a) there is a decline in the water level of the aquifer at the location of the bore and the exercise of underground water rights has, or has likely, caused or materially contributed to the decline; and</p> <p>(b) because of the decline, the bore can no longer provide a reasonable quantity or quality of water for its authorised use or purpose.</p> <p>(2) A new water bore has an <i>impaired capacity</i> if—</p> <p>(a) there is a decline in the water level of the aquifer at the location of the bore and the exercise of underground water rights has, or has likely, caused or materially contributed to the decline; and</p> <p>(b) the decline is more than the decline predicted at the location of the bore in the relevant report; and</p>	

<p>(c) because of the decline, the bore can no longer provide a reasonable quantity or quality of water for its authorised use or purpose.</p> <p>(3) Also, an existing water bore or a new water bore has an impaired capacity if—</p> <p>(a) there is evidence of any of the following (each an adverse effect)—</p> <p>(i) damage to the bore or to the bore’s pumps or other infrastructure;</p> <p>(ii) that the bore poses a health or safety risk;</p> <p>(iii) that the bore can no longer, or it is likely that the bore can no longer, provide a reasonable quantity or quality of water for its authorised use or purpose; and</p> <p>(b) free gas derived from the carrying out of authorised activities under a resource tenure has, or has likely, caused or materially contributed to the adverse effect.</p> <p>(4) A regulation may prescribe for this section a quality of water that is a reasonable quality of water for a particular authorised use or purpose.</p> <p>(5) In this section—</p> <p>existing water bore means any water bore in existence before the first underground water impact report relating to the area where the bore is located takes effect.</p> <p>new water bore means a water bore other than an existing water bore.</p> <p>relevant report, for a new water bore, means the approved underground water impact report—</p> <p>(a) in effect when the bore is constructed; and</p> <p>(b) relating to the area where the bore is located.</p>	
<p>413 Chief executive may make guidelines</p> <p>(1) The chief executive may make guidelines about the minimum requirements for undertaking a bore assessment.</p>	

<p>(2) Before making the guidelines, the chief executive may consult with the entities the chief executive considers appropriate.</p> <p>(3) The chief executive must publish the guidelines on the department's website</p>	
<p>414 Method of undertaking bore assessment</p> <p>(1) In undertaking a bore assessment of a water bore, a responsible tenure holder must comply with—</p> <p>(a) guidelines made by the chief executive under section 413 ; or</p> <p>(b) if there are no guidelines—best practice industry standards for carrying out work similar in nature to undertaking a bore assessment.</p> <p>Maximum penalty—50 penalty units.</p> <p>(2) However, subsection (1) does not apply to a bore assessment undertaken before the commencement of this section if the holder obtained information about the water bore that is sufficient to establish a matter mentioned in section 411 .</p>	<p>10. In undertaking a bore assessment of a water bore, the Licensee must comply with the most recent version of the "Bore Assessment Guidelines" as made under section 413 of the Act by the chief executive of the agency responsible for Chapter 3 of the Act.</p>
<p>Subdivision 2 Obligations relating to bore assessments</p> <p>415 Notice of intention to undertake bore assessment</p> <p>A responsible tenure holder must, at least 10 business days before undertaking a bore assessment of a water bore, give the bore owner of the bore a notice stating—</p> <p>(a) when the bore assessment will be undertaken; and</p> <p>(b) who will undertake the bore assessment.</p>	<p>11. The Licensee must, at least 10 business days before undertaking a bore assessment of a water bore, give the bore owner a notice stating: (a) when the bore assessment will be undertaken; and (b) who will undertake the bore assessment.</p>
<p>416 Bore owner must give information</p> <p>(1) To comply with its obligations under this division, a resource tenure holder may ask an owner of land for information about the following—</p> <p>(a) the location of any water bores on the owner's land;</p> <p>(b) any other information the holder reasonably requires to undertake a bore</p>	

<p>assessment of any bores mentioned in paragraph (a).</p> <p>(2) If there are water bores located on the owner's land, the owner of the land must comply with any reasonable request by a holder made under subsection (1), if the person has the information</p>	
<p>Subdivision 3 Obligations to undertake bore assessments</p> <p>417 Obligation to undertake bore assessment of immediately affected area bore in particular circumstances</p> <p>(1) This section applies if—</p> <p>(a) an underground water impact report or an amendment of a report takes effect; and</p> <p>(b) the report identifies, or the amendment changes the area or location of, an immediately affected area of an aquifer.</p> <p>(2) For each immediately affected area bore that is not already the subject of a make good agreement, the responsible tenure holder for the bore must, unless the holder has a reasonable excuse, undertake a bore assessment of the bore that complies with this division before—</p> <p>(a) the day that is 60 business days after the report or amendment takes effect; or</p> <p>(b) if the chief executive agrees to a later day—that day.</p> <p>Maximum penalty—500 penalty units.</p> <p>(3) However, subsection (2) does not apply if a bore assessment of the bore has already been undertaken.</p>	
<p>418 Direction by chief executive to undertake bore assessment</p> <p>(1) This section applies if the chief executive reasonably believes a water bore—</p> <p>(a) can no longer supply a reasonable quantity or quality of water for its authorised use or purpose; or</p> <p>(b) is affected, or is likely, in the future, to be affected, by the exercise of a resource tenure holder's underground water rights; or</p>	

(c) has an impaired capacity.

(2) The chief executive may give a resource tenure holder a notice stating that the holder must either—

(a) undertake a bore assessment that complies with this section

and [section 414](#) within a stated reasonable time; or

(b) make a submission within a stated reasonable period of at least 20 business days about why the holder should not be required to undertake the bore assessment.

(3) If the holder undertakes a bore assessment under subsection (2)(a), the holder must give the chief executive a copy of the notice given

under [section 419](#).

(4) In deciding the resource tenure holder to whom a notice is to be given under subsection (2), the chief executive must have regard to the impact considerations relating to the holder.

(5) If the holder makes a submission within the stated period and, after considering the submission, the chief executive still considers the holder should undertake the bore assessment, the chief executive may give the holder a notice stating—

(a) that the holder must undertake the bore assessment; and

(b) a reasonable period within which the bore assessment must be undertaken; and

(c) that a copy of the notice given under [section 419](#) must be given to the chief executive.

(6) The holder must comply with a notice given under subsection (2) or (5), unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

(7) A regulation may prescribe for this section a quality of water that is a reasonable quality of water for a particular authorised use or purpose.

(8) In this section—

<p>bore assessment includes an assessment of a water bore to establish—</p> <p>(a) whether it can supply a reasonable quantity or quality of water for its authorised use or purpose; and</p> <p>(b) the reason for any reduced capacity of the water bore to supply the reasonable quantity or quality of water.</p>	
<p>419 Notice of outcome of bore assessment</p> <p>(1) A resource tenure holder must give notice in the approved form of the outcome of a bore assessment to the office and the bore owner for the bore within—</p> <p>(a) if the bore assessment was undertaken before the commencement of this section—30 business days after the commencement; or</p> <p>(b) otherwise—30 business days after undertaking the bore assessment.</p> <p>Maximum penalty—500 penalty units.</p> <p>(2) If the resource tenure holder gives the notice to the office by an electronic communication, the electronic communication must be in the format required by the office unless otherwise agreed to in writing by the office.</p>	<p>12. The Licensee must give notice of the outcome of a bore assessment to the chief executive and the bore owner within: (a) if the bore assessment was undertaken before the granting of this licence - 30 business days after the granting of this licence; or (b) otherwise — 30 business days after undertaking the bore assessment.</p>
<p>Division 3 Make good agreements</p> <p>Subdivision 1 Preliminary</p> <p>420 What is a <i>make good agreement</i> for a water bore</p> <p>(1) A <i>make good agreement</i> for a water bore is an agreement—</p> <p>(a) entered into by the following parties—</p> <p>(i) the responsible tenure holder for the make good obligations for the bore;</p> <p>(ii) the bore owner; and</p> <p>(b) that provides for each of the following matters—</p> <p>(i) the outcome of the bore assessment for the bore;</p> <p>(ii) whether the bore has or is likely to have an impaired capacity;</p> <p>(iii) if the bore has or is likely to have an impaired capacity—the make good</p>	<p>18. A make good agreement between the Licensee and the bore owner must provide for each of the following matters:</p> <p>(a) the outcome of the bore assessment for the bore;</p> <p>(b) whether the bore has or is likely to have an impaired capacity;</p> <p>(c) if the bore has or is likely to have an impaired capacity—the make good measures for the bore to be taken by the Licensee; and</p> <p>(d) that the agreement may be terminated by the bore owner at any</p>

<p>measures for the bore to be taken by the responsible tenure holder;</p> <p>(iv) that the agreement may be terminated without penalty during the cooling-off period for the agreement; and</p> <p>(c) that is not terminated by the bore owner under section 423A at any time during the cooling-off period for the agreement.</p> <p>(2) In this section—<i>cooling-off period</i>, for a make good agreement for a water bore, see section 423A 4).</p>	<p>time during the cooling off period of the agreement.</p>
<p>421 What is a <i>make good measure</i> for a water bore</p> <p>A <i>make good measure</i> for a water bore is any of the following measures—</p> <p>(a) ensuring the bore owner has access to a reasonable quantity and quality of water for the bore’s authorised use or purpose;</p> <p><i>Examples—</i></p> <ul style="list-style-type: none"> • bore enhancement by deepening the bore or improving its pumping capacity • constructing a new bore • providing a supply of an equivalent amount of water of a suitable quality by piping it from an alternative source <p>(b) carrying out a plan to monitor the bore, including, for example, by undertaking periodic bore assessments;</p> <p>(c) giving the bore owner monetary or non-monetary compensation for the bore’s impaired capacity</p>	
<p>422 Persons bound by make good agreement</p> <p>A make good agreement for a water bore binds the parties to it and each of their successors and assigns, including successors and assigns of the relevant resource tenure.</p> <p><i>Note—</i></p> <p>See also section 364 (References to resource tenure holder in ch 3).</p>	

<p>Subdivision 2 Requirements to enter into make good agreements</p> <p>423 Requirement to enter into make good agreement and reimburse bore owner</p> <p>(1) This section applies in relation to a water bore for which a responsible tenure holder has undertaken a bore assessment under division 2.</p> <p>(2) The holder must use the holder's best endeavours to enter into a make good agreement for the bore with the bore owner by—</p> <p>(a) the day that is 40 business days after the bore assessment is undertaken; or</p> <p>(b) if the chief executive agrees to a later day—that day.</p> <p>(3) The holder must—</p> <p>(a) reimburse the bore owner for any accounting, hydrogeology, legal or valuation costs the bore owner necessarily and reasonably incurs in negotiating or preparing a make good agreement; and</p> <p>(b) advise the chief executive if the holder enters into the make good agreement.</p> <p>(4) However, the holder is not required to reimburse the bore owner for hydrogeology costs incurred for work performed other than by an appropriately qualified hydrogeologist.</p> <p>(5) In this section—</p> <p><i>appropriately qualified hydrogeologist</i> means an individual who has the minimum experience or qualifications, stated in the guidelines made by the chief executive under section 413, for undertaking a bore assessment.</p>	<p>MAKE GOOD AGREEMENTS</p> <p>17. Where a make good agreement is required under Conditions 7, 8 or 13, the Licensee must use the Licensee's best endeavours to enter into a make good agreement, for the bore with the bore owner, or for the WCS water source with the WCS water source user by:</p> <p>(a) the day that is 40 business days after the bore assessment or WCS water source assessment is undertaken; or</p> <p>(b) if the chief executive agrees to a later day—that day.</p> <p>20. The Licensee must reimburse the bore owner or WCS water source user for any accounting, hydrogeology, legal or valuation costs the bore owner or WCS water source user necessarily and reasonably incurs in negotiating or preparing a make good agreement. However the Licensee is not required to reimburse the bore owner or WCS water source user for hydrogeology costs incurred for work performed other than by an appropriately qualified hydrogeologist.</p>
<p>423A Termination of make good agreement during cooling-off period</p> <p>(1) This section applies if the responsible tenure holder for a water bore and the bore owner enter into a make good agreement for the bore.</p> <p>(2) The bore owner may, within the cooling-off period for the agreement,</p>	<p>18(d) that the agreement may be terminated by the bore owner at any</p>

<p>terminate the agreement by giving written notice to the responsible tenure holder for the water bore.</p> <p>(3) On the giving of the notice under subsection (2), the terminated agreement is taken never to have had effect.</p> <p>(4) This section does not apply to a make good agreement for a water bore that is the subject of a decision of the Land Court under division 4, subdivision 4.</p> <p>(5) In this section— cooling-off period, for a make good agreement for a water bore, means a period of 5 business days— (a) starting on the day the make good agreement is entered into; and (b) ending at 5p.m. on the fifth business day.</p>	<p>time during the cooling off period of the agreement</p>
<p>Subdivision 3 Obligation to negotiate variation of make good agreements 424 Negotiating variation of make good agreement</p> <p>(1) This section applies if, after entering into a make good agreement for a water bore, either party to the agreement considers a matter stated in the agreement is not appropriate because— (a) of a material change in circumstances; or (b) 1 or more of the make good measures agreed to is not effective; or (c) another effective and more efficient make good measure is available.</p> <p>Examples— 1 The impacts on a water bore because of the exercise of underground water rights are substantially greater than predicted in an underground water impact report. 2 A change in the authorised activities conducted in the area of a tenure is causing a substantial change in the impact of the exercise of underground water rights on aquifer water levels.</p> <p>(2) A party to the agreement may give a notice to the other party—</p>	<p>DISPUTE RESOLUTION</p> <p>22. Conditions 23 — 44A apply if: (a) the Licensee and a bore owner or WCS water source user cannot agree on the terms of a make good agreement within the period provided for under condition 17; or (b) the Licensee and a WCS water source user have entered into a make good agreement and cannot agree about: (i) whether a matter stated in the agreement is inappropriate because: (A) of a material change in circumstances; or (B) 1 or more of the make good measures agreed to is not effective; or (C) another effective and more efficient make good measure is available; or (ii) the terms of any variation of the agreement; or (c) the Licensee and a WCS water source user have entered into a make good agreement and one party reasonably believes the other party has</p>

<p>(a)stating why the party considers a matter stated in the agreement is not appropriate; and</p> <p>(b)asking the other party to vary the agreement.</p> <p>(3) A party to whom a notice is given under subsection (2) must use the party’s best endeavours to negotiate a variation of the make good agreement for the water bore that addresses the matters stated in the notice.</p> <p>(4) Subsection (3) does not prevent the parties to the make good agreement from otherwise agreeing to vary the agreement.</p>	<p>not complied with the agreement. Parties may seek conference or independent ADR</p>
<p>Division 4 Disputes about make good obligations</p> <p>Subdivision 1 Preliminary</p> <p>425 Application of div 4</p> <p>This division applies if—</p> <p>(a)a resource tenure holder and the owner of a water bore can not agree on the terms of a make good agreement for the bore within the period provided for under section 423 , including whether or not the bore has an impaired capacity; or</p> <p>(b)the parties to a make good agreement for a water bore can not agree about—</p> <p>(i)whether a matter stated in the agreement is inappropriate for a reason stated in section 424 (1); or</p> <p>(ii)if the parties agree a matter stated in the agreement is inappropriate—the terms of any variation of the agreement; or</p> <p>(c)a party to a make good agreement for a water bore reasonably believes the other party has not complied with the agreement.</p>	

426 Parties may seek conference or independent ADR

(1) This section applies if a dispute about a matter mentioned in [section 425](#) arises.

(2) Either party may, by a notice (an ***election notice***)—

(a) given to the other party and the chief executive—ask the chief executive to direct an authorised officer to call a conference to negotiate a resolution of the dispute; or

(b) given to the other party—call for the other party to agree to an alternative dispute resolution process (an ***ADR***) to negotiate a resolution of the dispute.

(3) The notice must state—

(a) details of the matters the subject of the dispute; and

(b) the contact details of the party giving the notice.

(4) Also, if the notice calls for an ADR, it must—

(a) identify the ADR; and

(b) if the party giving the notice is the resource tenure holder—state that the holder bears the costs of the person who will facilitate the ADR.

(5) An ADR may be a process of any kind, including, for example, conciliation or mediation.

(6) However, the person who facilitates the ADR must be independent of both parties.

(7) The resource tenure holder must bear the costs of the person who will facilitate the ADR.

23. If a dispute about a matter mentioned in Condition 22 arises, either party may, by a notice (an election notice):

(a) given to the other party and the chief executive—ask the chief executive to direct an authorised officer to call a conference to negotiate a resolution of the dispute; or

(b) given to the other party—call for the other party to agree to an alternative dispute resolution process (an ADR) to negotiate a resolution of the dispute.

24. The election notice must state—

(a) details of the matters the subject of the dispute; and

(b) the contact details of the party giving the notice.

25. Also, if the election notice calls for an ADR, it must identify the ADR and if the party giving the notice is the Licensee — state that the Licensee bears the costs of the person who will facilitate the ADR.

26. An ADR may be a process of any kind, including, for example, conciliation or mediation.

27. However, the person who facilitates the ADR must be independent of both parties.

28. The Licensee must bear the costs of the person who will facilitate the ADR.

Duration of conference or ADR

<p>427 Duration of conference or ADR</p> <p>(1) This section applies if an election notice is given.</p> <p>(2) If a conference is requested, the authorised officer directed under section 428 to conduct the conference must take all reasonable steps to ensure it is finished within 30 business days after the election notice is given (the <i>usual period</i>).</p> <p>(3) If an ADR is called for, the parties must use their reasonable endeavours to finish it within 30 business days after the election notice is given (also the <i>usual period</i>).</p> <p>(4) Either party may, within the usual period, ask the other party to agree to a longer period to finish the conference or ADR.</p> <p>(5) If the parties agree to the longer period, that period applies instead of the usual period.</p> <p>(6) If an ADR is called for, sections 430 and 433 apply to the ADR as if a reference in the sections to a conference were a reference to an ADR.</p>	<p>Duration of conference or ADR</p> <p>29. If an election notice is given, the following applies:</p> <p>(a) If a conference is requested, the authorised officer directed under Condition 30 to conduct the conference must take all reasonable steps to ensure it is finished within 30 business days after the election notice is given (the usual period).</p> <p>(b) If an ADR is called for, the parties must use their reasonable endeavours to finish it within 30 business days after the election notice is given (also the usual period).</p> <p>(c) Either party may, within the usual period, ask the other party to agree to a longer period to finish the conference or ADR.</p> <p>(d) If the parties agree to the longer period, that period applies instead of the usual period.</p> <p>(e) If an ADR is called for, Conditions 37 and 41 apply to the ADR as if a reference in Conditions 37 and 41 to a conference were a reference to an ADR.</p>
<p>Subdivision 2 Calling conference and attendance</p> <p>428 Calling conference</p> <p>(1) If an election notice is given requesting a conference, the chief executive must direct an authorised officer to conduct the conference.</p> <p>(2) The authorised officer must, by notice, ask the parties to attend a conference to negotiate a resolution of the dispute.</p> <p>(3) The notice must state what the subject of the conference is and when and where it will be held.</p>	<p>Calling conference</p> <p>30. If an election notice is given requesting a conference, the chief executive must direct an authorised officer to conduct the conference.</p> <p>31. The authorised officer must, by notice, ask the parties to attend a conference to negotiate a resolution of the dispute.</p> <p>32. The notice must state what the subject of the conference is and when and where it will be held. Who may attend conference</p>

<p>429 Who may attend conference</p> <p>(1) The authorised officer directed to conduct the conference under section 428 and the parties to the dispute may attend it.</p> <p>(2) A party may be represented by an agent only if the authorised officer agrees.</p> <p>(3) Also, with the authorised officer's approval, someone else may be present to help a party attending the conference.</p> <p>(4) However, a party can not be represented by a lawyer unless the other party agrees and the authorised officer is satisfied there is no disadvantage to a party.</p>	<p>33. The authorised officer directed to conduct the conference under Condition 30 and the parties to the dispute may attend it.</p> <p>34. A party may be represented by an agent only if the authorised officer agrees.</p> <p>35. Also, with the authorised officer's approval, someone else may be present to help a party attending the conference.</p> <p>36. However, a party cannot be represented by a lawyer unless the other party agrees and the authorised officer is satisfied there is no disadvantage to a party. What happens if a party does not attend</p>
<p>430 What happens if a party does not attend</p> <p>(1) This section applies if a party given notice of the conference does not attend.</p> <p>(2) A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party's reasonable costs of attending.</p> <p>(3) The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.</p> <p>(4) If the Land Court makes an order under subsection (2), it must decide the amount of the costs.</p>	<p>37. If a party given notice of a conference under Conditions 31 and 32 and does not attend a conference, a party who attended the conference may apply to any expert appointed under Condition 42B for an order for costs requiring the party who did not attend to pay the attending party's reasonable costs of attending. The expert may award the attending party's reasonable costs of attending, if any. If no expert is appointed under Condition 42B, then no costs are to be awarded. <i>(Variation to legislation)</i></p> <p>42A. If —</p> <p>(a) only 1 of the parties attended the conference or ADR; or</p> <p>(b) both parties attended the conference or ADR and, at the end of the required period, there is no resolution of the dispute, a party who attended the conference or ADR may notify the chief executive in writing and request that the matter the subject of the election notice be referred to the chief executive.</p>

<p>Subdivision 3 Conduct of conference</p> <p>431 Authorised officer's role</p> <p>(1) In conducting a conference, the authorised officer must endeavour to help those attending to negotiate an early and inexpensive settlement of the dispute.</p> <p>(2) The authorised officer must decide how the conference is conducted.</p>	<p>Conduct of conference</p> <p>38. In conducting a conference, the authorised officer must endeavour to help those attending to negotiate an early and inexpensive settlement of the dispute.</p> <p>39. The authorised officer must decide how the conference is conducted.</p> <p>40. The authorised officer may only conduct a conference after first obtaining the agreement of the parties that what is said during a conference conducted under Conditions 38 to 39 is confidential between the parties to the conference and that the parties agree that what is said is not admissible during any subsequent proceedings.</p> <p><i>(Variation to legislation)</i></p>
<p>432 Statements made at conference</p> <p>Nothing said by a person at the conference is admissible, without the person's consent, in a proceeding.</p>	
<p>433 Negotiated agreement</p> <p>(1) If, at the conference, the parties negotiate an agreement about the matters the subject of the conference, the agreement must be written and signed by or for the parties.</p> <p>(2) The agreement may be a make good agreement or a variation of an existing make good agreement between the parties.</p>	<p>41. If, at the conference, the parties negotiate an agreement about the matters the subject of the conference, the agreement must be written and signed by or for the parties. The agreement may be a make good agreement or a variation of an existing make good agreement between the parties.</p>
<p>Subdivision 4 Land Court decision on dispute</p> <p>434 Deciding dispute through Land Court after unsuccessful conference or ADR</p> <p>(1) This section applies if an election notice is given and—</p> <p>(a) if a party asked the chief executive to direct an authorised officer to conduct a conference—the authorised officer does not finish the conference within the period required under section 427 (the <i>required period</i>); or</p> <p>(b) if a party called for an ADR—the parties do not finish the ADR within the</p>	<p>Chief executive's decision on dispute</p> <p>42. If an election notice is given under Condition 23 and:</p> <p>(a) if a party asked the chief executive to direct an authorised officer to conduct a conference—the authorised officer does not finish the conference within the period required under Condition 29 (the required period); or</p> <p>(b) if a party called for an ADR—the parties do not finish the ADR within the</p>

<p>period required under section 427 (also the required period).</p> <p>(2) This section also applies if—</p> <p>(a) only 1 of the parties attended the conference or ADR; or</p> <p>(b) both parties attended the conference or ADR and, at the end of the required period, there is no resolution of the dispute.</p> <p>(3) An eligible party may apply to the Land Court to decide the matter the subject of the election notice.</p> <p>(4) In this section—</p> <p>eligible party means—</p> <p>(a) if subsection (1) applies—any party to the dispute; or</p> <p>(b) if subsection (2) applies—a party who attended the conference or ADR.</p>	<p>period required under Condition 29 (also the required period), any party to the dispute may notify the chief executive and request that the chief executive decide the matter the subject of the election notice. <i>(Variation from legislation Land Court)</i></p> <p>42B. Within 20 business days of being notified under condition 42 or condition 42A, the chief executive must notify the parties in writing that either:</p> <p>(a) the chief executive will decide the matter the subject of the election notice; or</p> <p>(b) the parties will be required to submit the matter to expert determination in accordance with the Resolution Institute Expert Determination Rules, 2016 Edition.</p>
<p>435 Provisions for making decision</p> <p>(1) Without limiting the Land Court’s jurisdiction, it may decide—</p> <p>(a) if the dispute is about the terms of a make good agreement for a water bore—the terms of the agreement; or</p> <p>(b) if the dispute is about varying the terms of a make good agreement for a water bore under section 424 —</p> <p>(i) whether a matter stated in the agreement is inappropriate for a reason stated in section 424 ; or</p> <p>(ii) the terms of any variation of the agreement; or</p> <p>(c) if the dispute is about whether a party to a make good agreement for a water bore has complied with the agreement—whether anything must be done by a party to comply with the agreement.</p> <p>(2) However, the Land Court may decide to vary a make good agreement for a water bore only to the extent the court considers the variation is appropriate to—</p> <p>(a) address a material change in circumstances; or</p> <p>(b) address a make good measure for the bore that is not effective; or</p>	

<p>(c) provide for another effective and more efficient make good measure for the bore.</p> <p>(3) Subject to subsection (2), the Land Court may make any order it considers appropriate about the make good agreement for the water bore or to meet or enforce its decision.</p> <p>(4) If the Land Court decides terms of a make good agreement for a water bore, the decision is taken to be a make good agreement for the bore.</p> <p>(5) If the Land Court decides to vary a make good agreement for a water bore, the agreement as varied by the decision is, for this Act, taken to be the make good agreement for the bore.</p>	
<p>436 Provisions for deciding any compensation</p> <p>(1) This section applies if the Land Court decides to include in a make good agreement, or a variation of a make good agreement, for a water bore a term requiring the resource tenure holder to compensate the bore owner.</p> <p>(2) The compensation may only be for—</p> <p>(a) diminution of any of the following because of the impacts on the bore of the exercise of underground water rights by resource tenure holders—</p> <p>(i) the value of the bore owner’s land on which the water bore is located;</p> <p>(ii) the authorised use or purpose the bore owner has or would have made, of water from the water bore; or</p> <p>(b) any cost to the bore owner, or loss the bore owner suffers, caused by the impaired capacity of the water bore.</p> <p><i>Example for paragraph (b)—</i></p> <p>the cost of transporting water to the bore owner’s land from an alternative water source</p> <p>(3) In deciding the amount of the compensation, the Land Court may consider any make good measures for the water bore, whether successful or otherwise, taken or attempted by the resource tenure holder.</p>	

<p>437 Land Court’s decision binds successors and assigns</p> <p>A decision by the Land Court under section 435 binds the parties to the dispute and each of their successors and assigns, including successors and assigns of the relevant resource tenure.</p> <p><i>Note—</i></p> <p>Under section 422, the parties to a make good agreement for a water bore and each of their successors and assigns is bound by the make good agreement.</p>	
<p>Part 6 End of tenure provisions</p> <p>438 Application of make good obligations to particular bores</p> <p>(1) This section applies if—</p> <p>(a) a final report for a resource tenure is approved under section 385; and</p> <p>(b) the report identifies a long-term affected area and 1 or more water bores in the long-term affected area.</p>	

<p>(2) Part 5 applies for each water bore mentioned in subsection (1)(b) as if—</p> <p>(a) the long-term affected area was an immediately affected area; and</p> <p>(b) the bore was an immediately affected area bore; and</p> <p>(c) the final report was an underground water impact report.</p> <p><i>Note—</i></p> <p>If a resource tenure ends, a reference in this chapter to a resource tenure holder includes a reference to the holder of the resource tenure immediately before it ended. See section 364 .</p>	
<p>439 Continuation of underground water obligations</p> <p>A resource tenure holder’s obligation to give a final report under section 374 , and the holder’s underground water obligations, continue to apply despite the ending of the tenure.</p> <p><i>Note—</i></p> <p>For access to the relevant land after the tenure ends to allow a resource tenure holder to comply with the holder’s underground water obligations, see section 441.</p>	
<p>440 Resource tenure holder may start complying with make good obligations before final report approved</p> <p>If a resource tenure ends, nothing in this chapter is taken to prevent the holder of the tenure undertaking a bore assessment of a water bore, or entering into a make good agreement for a water bore, before a final report for the tenure is approved.</p>	
<p>441 Right of entry after resource tenure ends to comply with particular obligations</p> <p>(1) This section applies if a resource tenure ends and the former holder of the resource tenure (the <i>former tenure holder</i>)—</p> <p>(a) is the responsible tenure holder for an underground water obligation; or</p>	

(b)has not complied with an obligation to give a final report under part 2; or
(c)has been given a direction by the chief executive under part 8.

(2) The former tenure holder may enter land under the relevant entry provisions to comply with an obligation or direction mentioned in subsection (1).

(3) The relevant entry provisions apply to the former tenure holder as if—

- (a)the tenure were still in force; and
- (aa)the tenure were a resource authority to which the relevant entry provisions apply; and
- (b)the former tenure holder were the holder of the tenure; and
- (c)any water monitoring authorities held by the former tenure holder were still in force; and
- (d)carrying out an activity to comply with an underground water obligation or a direction given by the chief executive under part 8 were an authorised activity for the tenure.

(4) In this section—

relevant entry provisions means the *Mineral and Energy Resources (Common Provisions) Act 2014*, chapter 3.