

I hereby certify that this PUBLIC BILL has finally passed the Legislative Assembly of Queensland.

Legislative Assembly Chamber,  
Brisbane,

The Clerk of the Parliament.

20 August 2020

In the name and on behalf of the Queen, I assent to this Bill.

*Paul de Jersey*

Government House,

Brisbane,

20 August 2020



Queensland

No. 26 of 2020

A BILL for

An Act to amend the Acquisition of Land Act 1967, the Environmental Protection Act 1994, the Mineral and Energy Resources (Financial Provisioning) Act 2018 and the legislation mentioned in schedule 1 for particular purposes



Queensland

# Environmental Protection and Other Legislation Amendment Bill 2020

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	10
<b>Part 2</b>	<b>Amendment of Environmental Protection Act 1994</b>	
2	Act amended . . . . .	10
3	Amendment of s 37 (When EIS process applies) . . . . .	10
4	Insertion of new ch 3, pt 3 . . . . .	11
	Part 3            Decision about whether EIS may be required	
	73            Main purpose of part and its achievement . . . . .	11
	73A           Proposed applicant may apply for decision about EIS . . . . .	11
	73B           Requirements for application . . . . .	12
	73C           Deciding application . . . . .	12
5	Amendment of s 82 (Offence to contravene agricultural ERA standard) . . . . .	13
6	Amendment of s 112 (Other key definitions for ch 5) . . . . .	13
7	Amendment of s 113 (Single integrated operations) . . . . .	14
8	Amendment of s 114A (Application of assessment process for proposed PRC plans) . . . . .	14
9	Amendment of s 116 (Who may apply for an environmental authority) . . . . .	14
10	Amendment of s 117 (Restriction for applications for resource activities) . . . . .	14
11	Amendment of s 118 (Single application required for ERA projects) . . . . .	15
12	Amendment of s 125 (Requirements for applications generally) . . . . .	15
13	Amendment of s 130 (Nomination of principal applicant) . . . . .	16
14	Amendment of s 132 (Changing application or proposed PRC plan) . . . . .	17

Contents

---

15	Amendment of s 136A (Administering authority must obtain report about public interest evaluation for particular applications) . . . . .	17
16	Amendment of s 139 (Information stage does not apply if EIS process complete) . . . . .	17
17	Amendment of s 143 (EIS may be required) . . . . .	18
18	Insertion of new s 143A . . . . .	18
	143A Proposed PRC plan required for particular applications	19
19	Amendment of s 144 (When information request must be made)	19
20	Amendment of s 146 (Applicant responds to any information request) . . . . .	20
21	Amendment of s 150 (Notification stage does not apply to particular applications) . . . . .	20
22	Amendment of s 151 (When notification stage can start) . . . . .	21
23	Amendment of s 153 (Required content of application notice) . . . . .	21
24	Amendment of s 157 (Public access to application) . . . . .	22
25	Amendment of s 158 (Declaration of compliance) . . . . .	22
26	Amendment of s 160 (Right to make submission) . . . . .	22
27	Amendment of s 161 (Acceptance of submission) . . . . .	23
28	Amendment of s 176A (Criteria for decision—proposed PRCP schedule) . . . . .	23
29	Omission of s 189 (Land Court mediation of objections) . . . . .	23
30	Amendment of s 215 (Other amendments) . . . . .	23
31	Amendment of s 222 (Exclusions from amendment under pt 7) . . . . .	23
32	Amendment of s 223 (Definitions for part) . . . . .	24
33	Amendment of s 225 (Amendment application can not be made in particular circumstances) . . . . .	24
34	Insertion of new s 226AA . . . . .	24
	226AA Requirement for amendment application by holder of environmental authority and PRCP schedule . . . . .	24
35	Amendment of s 226A (Requirements for amendment applications for environmental authorities) . . . . .	25
36	Insertion of new s 227AAA . . . . .	26
	227AAA When amendment application is a properly made amendment application . . . . .	26
37	Insertion of new ch 5, pt 7, div 2AA . . . . .	26
	Division 2AA Notices about not properly made amendment applications	
	227AAB Notice about amendment application that is not a properly made amendment application . . . . .	27

	227AAC	When amendment application lapses . . . . .	27
38		Amendment of s 228 (Assessment level decision for amendment application) . . . . .	28
39		Amendment of s 230 (Administering authority may require public notification for particular amendment applications) . . . . .	28
40		Amendment of s 232 (Relevant application process applies) . . .	29
41		Amendment of s 236 (Changing amendment application) . . . . .	29
42		Amendment of s 239 (Application of div 5) . . . . .	30
43		Amendment of s 240 (Deciding amendment application) . . . . .	30
44		Amendment of s 245 (Who may apply) . . . . .	30
45		Amendment of s 246 (Requirements for amalgamation application)	30
46		Insertion of new s 247A . . . . .	31
	247A	Anniversary day for amalgamated local government authority or amalgamated project authority . . . . .	31
47		Amendment of s 248 (Steps after deciding amalgamation application) . . . . .	32
48		Amendment of s 250B (Requirements for de-amalgamation application) . . . . .	32
49		Amendment of s 250C (De-amalgamation) . . . . .	33
50		Amendment of s 250D (When de-amalgamation takes effect) . .	33
51		Amendment of s 252 (Who may apply for transfer) . . . . .	33
52		Amendment of s 256 (Notice to owners of transfer) . . . . .	34
53		Amendment of s 262 (Requirements for surrender application) .	34
54		Amendment of s 264 (Requirements for final rehabilitation report)	34
55		Replacement of s 264A (Requirements for post-mining management report) . . . . .	35
	264A	Requirements for post-surrender management report	35
56		Amendment of s 267 (Advice from MRA chief executive about surrender application) . . . . .	38
57		Amendment of s 268 (Criteria for decision generally) . . . . .	38
58		Amendment of s 271 (Payment may be required for residual risks of rehabilitation) . . . . .	39
59		Amendment of s 273 (Amount and form of payment) . . . . .	39
60		Amendment of s 275 (Steps after deciding surrender application)	40
61		Insertion of new s 275B . . . . .	41
	275B	Recording of residual risks . . . . .	41
62		Insertion of new s 284AA . . . . .	42
	284AA	Cancellation after suspension if annual fee not paid .	42

Contents

---

63	Amendment of s 291 (Plan of operations required before acting under petroleum lease) . . . . .	43
64	Amendment of s 293 (Amending or replacing plan) . . . . .	44
65	Amendment of s 300 (Making ERC decision) . . . . .	45
66	Amendment of s 303 (Administering authority may direct holder to re-apply for ERC decision) . . . . .	45
67	Amendment of s 304 (When holder must re-apply for ERC decision)	46
68	Amendment of s 306 (Effect of amalgamation or de-amalgamation of environmental authority on ERC decision) . . . . .	46
69	Relocation and renumbering of ch 5A, pt 3 (Codes of practice) .	47
70	Amendment of s 318F (Application for registration) . . . . .	47
71	Amendment of s 318R (Investigation of applicant suitability or disqualifying events) . . . . .	47
72	Replacement of ch 5A, pt 6, hdg, ch 5A, pt 6, div 1, hdg and ch 5A, pt 6, div 1, sdiv 1, hdg . . . . .	48
	Part 6 Progressive certification for resource activities	
	Division 1 Preliminary	
73	Amendment of s 318Z (What is progressive certification) . . . . .	48
74	Amendment of s 318ZD (Requirements for progressive certification application) . . . . .	48
75	Replacement of s 318ZF (Requirements for progressive rehabilitation report) . . . . .	48
	318ZF Requirements for progressive certification report . . .	49
76	Amendment of s 318ZI (Criteria for decision) . . . . .	50
77	Amendment of s 318ZJ (Steps after making decision) . . . . .	50
78	Omission of ch 5A, pt 6, div 2 (Payment for residual risks of rehabilitation) . . . . .	51
79	Amendment of s 320A (Application of div 2) . . . . .	51
80	Amendment of s 363F (Definitions for pt 5B) . . . . .	52
81	Insertion of new ch 8A . . . . .	52
	Chapter 8A Rehabilitation commissioner	
	Part 1 Appointment	
	444A Appointment . . . . .	52
	444B Term of appointment . . . . .	53
	444C Remuneration and conditions . . . . .	53
	444D Leave of absence . . . . .	54
	444E Vacancy in office . . . . .	54
	444F Removal from office . . . . .	54

	444G	Acting rehabilitation commissioner . . . . .	55
	444H	Preservation of rights . . . . .	55
	Part 2	Functions and powers	
	444I	Functions . . . . .	56
	444J	Powers . . . . .	57
	444K	Publication of advice, reports and guidance . . . . .	57
	444L	Delegation . . . . .	58
	444M	Staff services from government agency . . . . .	58
	444N	Ministerial direction . . . . .	59
	444O	Annual report . . . . .	59
82		Amendment of s 515 (Delegation by Minister) . . . . .	60
83		Amendment of s 516 (Delegation by chief executive) . . . . .	61
84		Amendment of s 521 (Procedure for review) . . . . .	61
85		Amendment, relocation and renumbering of s 522 (Stay of operation of particular original decisions) . . . . .	65
86		Amendment, relocation and renumbering of s 522A (Stay of decision about financial assurance) . . . . .	66
87		Amendment, relocation and renumbering of s 522B (Stay of particular decisions if unacceptable risk of environmental harm) . . . . .	66
88		Amendment, relocation and renumbering of s 522C (Effect of stay of ERC decision) . . . . .	67
89		Omission of s 529 (Effect of stay on particular decisions) . . . . .	67
90		Amendment of s 533 (Appellant to give notice of appeal to other parties) . . . . .	67
91		Amendment, relocation and renumbering of s 535 (Stay of operation of decisions) . . . . .	67
92		Amendment, relocation and renumbering of s 535A (Stay of decision to issue a clean-up notice) . . . . .	68
93		Omission of ss 535B and 535C . . . . .	69
94		Insertion of new ch 11, pt 3, div 4, hdg . . . . .	69
	Division 4	Stays	
95		Amendment of s 540 (Registers to be kept by administering authority) . . . . .	69
96		Amendment of s 754 (Requirement for mining EA holders to give proposed PRC plan) . . . . .	69
97		Insertion of new ss 765A and 765B . . . . .	70
	765A	Application of part if holder of environmental authority changes . . . . .	70

Contents

---

	765B	Application of s 431A for particular mining EA holders	70
98		Insertion of new ch 13, pt 30 . . . . .	72
	Part 30	Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2020	
	777	Definition for part . . . . .	72
	778	Existing applications for environmental authorities . .	73
	779	Existing amendment applications . . . . .	73
	780	Existing amalgamation and de-amalgamation applications . . . . .	73
	781	Existing transfer applications . . . . .	73
	782	Existing surrender applications . . . . .	74
	783	Existing suspension periods for environmental authorities	74
	784	Existing de-amalgamated environmental authorities .	75
	785	Existing re-applications for ERC decisions . . . . .	76
	786	Application of s 303 to ERC decisions made before commencement . . . . .	76
	787	Application of provisions in relation to environmental authorities held by entities . . . . .	76
	788	Existing applications for registration of suitable operators	77
	789	Existing progressive certification applications . . . . .	77
	790	Existing review applications . . . . .	77
	791	Existing applications for stays . . . . .	78
99		Amendment of sch 2 (Original decisions) . . . . .	78
100		Amendment of sch 4 (Dictionary) . . . . .	79
<b>Part 3</b>		<b>Amendment of Mineral and Energy Resources (Financial Provisioning) Act 2018</b>	
101		Act amended . . . . .	84
102		Amendment of long title . . . . .	84
103		Amendment of s 3 (Main purposes) . . . . .	84
104		Amendment of s 4 (How main purposes to be achieved) . . . . .	85
105		Amendment of pt 2, hdg (Establishment of scheme) . . . . .	85
106		Amendment of s 21 (Functions) . . . . .	86
107		Insertion of new pt 2, div 3 . . . . .	86
	Division 3	Residual risks fund	
	25A	Establishment of residual risks fund . . . . .	86
108		Amendment, relocation and renumbering of s 71 (Scheme manager to keep Minister informed) . . . . .	87

109	Amendment, relocation and renumbering of s 72 (Scheme annual report)	87
110	Amendment of s 73 (Investigation of actuarial sustainability of scheme)	88
111	Relocation and renumbering of s 74 (Application for judicial review of particular decisions)	88
112	Amendment, relocation and renumbering of s 75 (Decisions of scheme manager otherwise final)	89
113	Amendment, relocation and renumbering of s 76 (No stay of decisions)	89
114	Insertion of new pt 3A and pt 3B, hdg	89
	Part 3A Administration of residual risks fund	
	76A Application of part	89
	76B Requesting entity may ask for payment from residual risks fund	90
	76C Decision of scheme manager	90
	76D Guidelines	91
	76E Investigation of actuarial sustainability of residual risks fund	91
	Part 3B Effect of decisions of scheme manager	
115	Amendment of s 79 (Definitions for part)	93
116	Amendment of s 80 (Duty of confidentiality)	93
117	Amendment of sch 1 (Dictionary)	93
<b>Part 4</b>	<b>Other amendments</b>	
<b>Division 1</b>	<b>Amendment of Acquisition of Land Act 1967</b>	
117A	Act amended	95
117B	Insertion of new pt 6, div 5	95
	Division 5 Validation provisions for Environmental Protection and Other Legislation Amendment Act 2020	
	52 Validation provision relating to purposes for which land may be taken	95
	53 Validation of taking of particular land	96
	54 Validation of particular notices of intention to resume and resumption agreements	96
117C	Amendment of sch 1 (Purposes for taking land)	97
<b>Division 2</b>	<b>Minor and consequential amendments</b>	
118	Legislation amended	98
<b>Schedule 1</b>	<b>Legislation amended</b>	99



Contents

---

Environmental Protection Act 1994 . . . . .	99
Environmental Protection Regulation 2019 . . . . .	103
Environmental Protection (Water and Wetland Biodiversity) Policy 2019 . . . . .	104
Mineral and Energy Resources (Financial Provisioning) Act 2018	104
Water Act 2000 . . . . .	105

**2020**

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## **A Bill**

for

**An Act to amend the *Acquisition of Land Act 1967*, the *Environmental Protection Act 1994*, the *Mineral and Energy Resources (Financial Provisioning) Act 2018* and the legislation mentioned in schedule 1 for particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Environmental Protection and Other Legislation Amendment Act 2020*.

## **Part 2 Amendment of Environmental Protection Act 1994**

### **2 Act amended**

This part amends the *Environmental Protection Act 1994*.

*Note—*

See also the amendments in schedule 1.

### **3 Amendment of s 37 (When EIS process applies)**

(1) Section 37(1)(e)—

*renumber* as section 37(1)(f).

(2) Section 37(1)—

*insert—*

(e) the chief executive has, under part 3—

(i) decided that an EIS would be required under this Act for an application for an environmental authority for the project; or

(ii) approved the voluntary preparation of an EIS for the project; or

---

**4 Insertion of new ch 3, pt 3**

Chapter 3—

*insert—*

**Part 3 Decision about whether  
EIS may be required**

**73 Main purpose of part and its achievement**

- (1) The main purpose of this part is to allow a person who is considering applying for an environmental authority for a project to find out whether an EIS would be required for the application under this Act.
- (2) The main purpose is achieved by providing for a process for the chief executive to decide whether an EIS would be required under this Act for an application for an environmental authority (an *EA application*) for a project.

**73A Proposed applicant may apply for decision about EIS**

- (1) A person may apply to the chief executive—
  - (a) for a decision about whether an EIS would be required under this Act for an EA application for a project; and
  - (b) for approval to prepare an EIS for a project if the chief executive decides an EIS would not be required under this Act for an EA application for the project.
- (2) The application may be made—
  - (a) for only a decision under subsection (1)(a);  
or

[s 4]

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- (b) for a decision under subsection (1)(a) and, if applicable, an approval under subsection (1)(b).

### **73B Requirements for application**

The application must be—

- (a) in the approved form; and
- (b) supported by enough information to allow the chief executive to decide whether an EIS would be required for an EA application for the project; and
- (c) if the application includes an application for an approval under section 73A(1)(b)—
  - (i) supported by enough documents or information to establish that the applicant may enter land to which the project relates to carry out any necessary studies for the EIS; and
  - (ii) the documents that, under section 41(3), must accompany a submitted draft terms of reference for an EIS; and
- (d) accompanied by the fee prescribed by regulation.

### **73C Deciding application**

- (1) The chief executive must consider the application and decide—
  - (a) whether an EIS would be required under this Act for an EA application for the project; and
  - (b) if the application includes an application for an approval under section 73A(1)(b) and the chief executive decides an EIS would not be required under this Act for an EA

application for the project—to grant or refuse the approval.

- (2) In making a decision under subsection (1)(a), the chief executive must consider the standard criteria.
- (3) The chief executive may grant an approval under subsection (1)(b) only if the chief executive considers an EIS is appropriate for the project.
- (4) The chief executive must, within 10 business days after the decision is made, give the applicant a written notice stating the decision, and the reasons for it.

## 5 **Amendment of s 82 (Offence to contravene agricultural ERA standard)**

Section 82(1)—

*omit, insert—*

- (1) This section applies if an agricultural ERA standard applies to an agricultural ERA.

## 6 **Amendment of s 112 (Other key definitions for ch 5)**

Section 112—

*insert—*

***Great Barrier Reef catchment waters*** means water in—

- (a) a river in the Great Barrier Reef catchment;  
or
- (b) a tributary of a river mentioned in paragraph (a).

***single integrated operation*** see section 113.

[s 7]

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**7 Amendment of s 113 (Single integrated operations)**

Section 113, ‘single integrated operation’—

*omit, insert—*

*single integrated operation*

**8 Amendment of s 114A (Application of assessment process for proposed PRC plans)**

Section 114A(1)—

*omit, insert—*

(1) This section applies—

(a) if there is a proposed PRC plan for a site-specific application; and

(b) for a proposed PRC plan that did not accompany the site-specific application—  
from when the proposed PRC plan is submitted for the application.

**9 Amendment of s 116 (Who may apply for an environmental authority)**

(1) Section 116(1), ‘An entity’—

*omit, insert—*

A person

(2) Section 116(2), ‘entities’—

*omit, insert—*

persons

**10 Amendment of s 117 (Restriction for applications for resource activities)**

(1) Section 117, ‘An entity’—

*omit, insert—*

A person

- (2) Section 117, ‘the entity’—  
*omit, insert—*  
the person

**11 Amendment of s 118 (Single application required for ERA projects)**

- (1) Section 118(1), ‘an entity’—  
*omit, insert—*  
a person
- (2) Section 118(2), ‘entity’—  
*omit, insert—*  
person

**12 Amendment of s 125 (Requirements for applications generally)**

- (1) Section 125(1)(f), ‘entities’—  
*omit, insert—*  
persons
- (2) Section 125(1)(n), ‘that complies with this division’—  
*omit.*
- (3) Section 125—  
*insert—*
- (5) Despite subsection (1), if the application is a variation or site-specific application for the prescribed ERA mentioned in the *Environmental Protection Regulation 2019*, schedule 2, section 13A—
- (a) it need only include the matters mentioned in subsection (1)(l)(i)(A) to (D), (ii) and (iii)



[s 13]

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- to the extent the matters relate to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef or Great Barrier Reef catchment waters; and
- (b) subsection (1)(l)(i)(E) does not apply for the application.
- (6) Subsection (1)(l) does not apply for a variation application or site-specific application, and subsection (1)(n) does not apply for a site-specific application for a mining activity relating to a mining lease, if—
- (a) the chief executive has, under chapter 3, part 2 or 3, approved the voluntary preparation of an EIS for the project the subject of the application and the applicant has—
- (i) started the EIS process for the application; or
- (ii) stated in the application that the applicant will prepare an EIS under chapter 3, part 1; or
- (b) the chief executive has, under chapter 3, part 3, decided that an EIS is required for the application; or
- (c) the Coordinator-General has, under the State Development Act, section 26(1)(a), declared that the project the subject of the application is a coordinated project for which an EIS under that Act is required.

### **13 Amendment of s 130 (Nomination of principal applicant)**

(1) Section 130(2), ‘entity’—

*omit, insert—*

person

(2) Section 130(2) and (3), ‘accompanying’—

*omit, insert—*

for

**14 Amendment of s 132 (Changing application or proposed PRC plan)**

Section 132(4)(a) and (b), ‘entity’—

*omit, insert—*

person

**15 Amendment of s 136A (Administering authority must obtain report about public interest evaluation for particular applications)**

(1) Section 136A(1)(a), ‘ends’—

*omit, insert—*

has ended

(2) Section 136A(1)(b)—

*omit, insert—*

(b) there is a proposed PRC plan for the application that includes a proposed PRCP schedule identifying an area of land as a non-use management area under section 126D(2)(b); and

(3) Section 136A(2), ‘the application stage ends’—

*omit, insert—*

the later of the application stage ending or the proposed PRC plan being submitted

**16 Amendment of s 139 (Information stage does not apply if EIS process complete)**

(1) Section 139(2)—

*renumber* as section 139(3).

[s 17]

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(2) Section 139—

*insert—*

(2) However—

- (a) this section applies for a variation application or site-specific application only if the matters mentioned in section 125(1)(l) have been provided to the administering authority (whether with the application, through the EIS or in another way); and
- (b) this section applies for a site-specific application for a mining activity relating to a mining lease only if there is a proposed PRC plan for the application.

## **17 Amendment of s 143 (EIS may be required)**

Section 143—

*insert—*

- (5) If the chief executive has made a decision under section 73C that an EIS would not be required for an application for an environmental authority for a project, the administering authority must not require an applicant for an environmental authority for the project to provide an EIS for the application.
- (6) Subsection (5) does not apply if the environmental risks of the activities proposed to be carried out under the project, and the way the activities are to be carried out, are different from the environmental risks and activities considered by the chief executive when making the decision under section 73C.

## **18 Insertion of new s 143A**

After section 143—

---

*insert—*

**143A Proposed PRC plan required for particular applications**

- (1) This section applies for a site-specific application for a mining activity relating to a mining lease if there is no proposed PRC plan for the application.
- (2) Without limiting section 140(1), the administering authority must include in an information request a requirement that the applicant submit a proposed PRC plan for the application.
- (3) The proposed PRC plan must comply with part 2, division 3.

**19 Amendment of s 144 (When information request must be made)**

Section 144(a)(ii)—

*omit, insert—*

- (ii) otherwise, but subject to subparagraphs (iii) and (iv)—20 business days after the day the application stage ends for the application;
- (iii) if a proposed PRC plan is submitted before the end of the period mentioned in subparagraph (ii)—30 business days after the day the application stage ends for the application;
- (iv) if a proposed PRC plan is submitted after the end of the period mentioned in subparagraph (ii) in response to an information request made in that period—10 business days after the proposed PRC plan is submitted; or

[s 20]

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**20 Amendment of s 146 (Applicant responds to any information request)**

Section 146—

*insert—*

- (3) Also, despite subsection (1), if the information request requires the applicant to submit a proposed PRC plan for the application under section 143A, a proposed PRC plan complying with part 2, division 3 must be submitted.

**21 Amendment of s 150 (Notification stage does not apply to particular applications)**

(1) Section 150(1)(a) and (b)—

*omit, insert—*

- (a) for an EIS under this Act—
- (i) the EIS for each relevant activity the subject of the application has been notified under section 51; and
  - (ii) for a site-specific application for a mining activity relating to a mining lease—the notification of the EIS for the mining activity under section 51 included a notification of a proposed PRC plan for the application; and
- (b) for an EIS under the State Development Act—
- (i) the EIS for each relevant activity the subject of the application has been notified under section 33 of that Act; and
  - (ii) for a site-specific application for a mining activity relating to a mining lease—the notification of the EIS for the mining activity under section 33 of

that Act included a notification of a proposed PRC plan for the application; and

- (2) Section 150(1)(d), from ‘, since’ to ‘or (b)’—

*omit, insert—*

notified with an EIS mentioned in paragraph (a) or (b), since the EIS

## **22 Amendment of s 151 (When notification stage can start)**

- (1) Section 151, ‘as soon as’—

*omit, insert—*

at any time after

- (2) Section 151—

*insert—*

- (2) However, if the application is a site-specific application for a mining activity relating to a mining lease, the applicant may start the notification stage only if there is a proposed PRC plan for the application.

## **23 Amendment of s 153 (Required content of application notice)**

- (1) Section 153(1)(e) and (f), after ‘application’—

*insert—*

documents

- (2) Section 153(2), from ‘application was made’—

*omit, insert—*

notification stage for the application started.

- (3) Section 153(3), ‘properly made application’—

*omit, insert—*

[s 24]

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application documents

- (4) Section 153(3)(b), after ‘PRC plan’—

*insert—*

notified with the EIS

## **24 Amendment of s 157 (Public access to application)**

- (1) Section 157, heading, after ‘application’—

*insert—*

**documents**

- (2) Section 157(1)(a), after ‘keep the application’—

*insert—*

documents for the application

- (3) Section 157(1)(b) and (c), after ‘application’—

*insert—*

documents

## **25 Amendment of s 158 (Declaration of compliance)**

Section 158(1)(b)—

*omit, insert—*

- (b) if the application is a site-specific application—the requirement under section 156 to make a copy of the documents mentioned in section 156(2) available on a website.

## **26 Amendment of s 160 (Right to make submission)**

Section 160(1), after ‘application’—

*insert—*

or a proposed PRC plan for the application

---

**27 Amendment of s 161 (Acceptance of submission)**

Section 161(4), from ‘application was made’—

*omit, insert—*

notification stage for the application started.

**28 Amendment of s 176A (Criteria for decision—proposed PRCP schedule)**

(1) Section 176A(1), from ‘if’ to ‘plan’—

*omit, insert—*

if there is a proposed PRC plan for a site-specific application

(2) Section 176A(2)(b)—

*insert—*

(vi) any relevant advice, report or guidance published by the rehabilitation commissioner under section 444K.

**29 Omission of s 189 (Land Court mediation of objections)**

Section 189—

*omit.*

**30 Amendment of s 215 (Other amendments)**

Section 215(2)(c)(i), ‘entity’—

*omit, insert—*

person

**31 Amendment of s 222 (Exclusions from amendment under pt 7)**

Section 222(c), ‘an entity’—

*omit, insert—*



[s 32]

---

a person

**32 Amendment of s 223 (Definitions for part)**

Section 223—

*insert—*

*properly made amendment application* see section 227AAA.

**33 Amendment of s 225 (Amendment application can not be made in particular circumstances)**

Section 225—

*insert—*

- (2) Also, despite section 224, an amendment application for an environmental authority can not be made if—
  - (a) the proposed amendment is to add an environmentally relevant activity; and
  - (b) if the amendment application were approved, the addition of the activity would result in the environmental authority applying to activities that were not being carried out as an ERA project.

**34 Insertion of new s 226AA**

After section 226—

*insert—*

**226AA Requirement for amendment application by holder of environmental authority and PRCP schedule**

- (1) This section applies if—
  - (a) the holder of an environmental authority and a PRCP schedule for the environmental

- authority (each a *relevant environmental requirement*) makes an amendment application; and
- (b) the application is to amend only 1 of the relevant environmental requirements; and
  - (c) the approval of the amendment application would result in the relevant environmental requirement to which the application relates being inconsistent with the other relevant environmental requirement.
- (2) The holder must make an amendment application to amend both relevant environmental requirements in a way that, if the amendment application were approved, would not result in 1 of the relevant environmental requirements being inconsistent with the other relevant environmental requirement.

**35 Amendment of s 226A (Requirements for amendment applications for environmental authorities)**

- (1) Section 226A(2)(a) and (b)—

*omit, insert—*

- (a) either—
  - (i) the process under chapter 3 for an EIS for the proposed amendment has been completed; or
  - (ii) the Coordinator-General has evaluated an EIS for the proposed amendment and there are Coordinator-General's conditions that relate to the proposed amendment; and
- (b) an assessment of the environmental risk of the proposed amendment would be the same as the assessment in the EIS mentioned in

[s 36]

---

paragraph (a)(i) or the evaluation mentioned in paragraph (a)(ii).

(2) Section 226A—

*insert—*

(4) Despite subsection (1)(f), (g) and (h), if the amendment application is for an environmental authority for the prescribed ERA mentioned in the *Environmental Protection Regulation 2019*, schedule 2, section 13A—

- (a) it need only include the matters mentioned in subsection (1)(f)(i) to (iv), (g) and (h) to the extent the matters relate to fine sediment, or dissolved inorganic nitrogen, entering the water of the Great Barrier Reef or Great Barrier Reef catchment waters; and
- (b) subsection (1)(f)(v) does not apply for the amendment application.

### **36 Insertion of new s 227AAA**

After section 227AA—

*insert—*

#### **227AAA When amendment application is a properly made amendment application**

An amendment application under section 224 is a *properly made amendment application* if it complies with this division.

### **37 Insertion of new ch 5, pt 7, div 2AA**

Chapter 5, part 7, before division 2A—

*insert—*

---

## **Division 2AA Notices about not properly made amendment applications**

### **227AAB Notice about amendment application that is not a properly made amendment application**

- (1) This section applies if an amendment application is not a properly made amendment application.
- (2) The administering authority must, within 10 business days after receiving the amendment application, give the applicant a notice stating the following—
  - (a) it is not a properly made amendment application;
  - (b) the reasons the administering authority is satisfied it is not a properly made amendment application;
  - (c) the action the administering authority is satisfied the applicant must take for the application to be a properly made amendment application;
  - (d) the period of at least 20 business days after the notice is given within which the applicant must give written notice to the administering authority that the action has been taken;
  - (e) that, if the applicant does not give the notice mentioned in paragraph (d) within the stated period, the amendment application will lapse under section 227AAC.

### **227AAC When amendment application lapses**

- (1) This section applies if the applicant is given a notice under section 227AAB(2).

[s 38]

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- (2) The amendment application lapses if the applicant does not, within the stated period or the further period agreed between the administering authority and the applicant—
  - (a) take the action mentioned in section 227AAB(2)(c); and
  - (b) give the administering authority written notice that the action has been taken.

**38 Amendment of s 228 (Assessment level decision for amendment application)**

Section 228(1)—

*omit, insert—*

- (1) The administering authority must, after receiving an amendment application, decide whether the proposed amendment is a major or minor amendment—
  - (a) if the administering authority gives the applicant a notice under section 227AAB(2)—within 10 business days after the applicant gives the administering authority the notice mentioned in section 227AAB(2)(d); or
  - (b) otherwise—within 10 business days after receiving the amendment application.

**39 Amendment of s 230 (Administering authority may require public notification for particular amendment applications)**

(1) Section 230—

*insert—*

- (2A) Also, the notice given under section 229 may state that part 4 applies to the amendment application if the application is for an environmental authority

for a new mining lease.

- (2) Section 230(2A) to (4)—  
*renumber* as section 230(3) to (5).

**40 Amendment of s 232 (Relevant application process applies)**

- (1) Section 232(2)(a), ‘is a change to’—  
*omit, insert*—

application is for

- (2) Section 232—

*insert*—

(2A) Also, the following provisions do not apply for an amendment application for an environmental authority for a mining activity relating to a mining lease—

- (a) sections 139(2)(b) and 143A;  
(b) sections 150(1)(a)(ii) and (b)(ii) and 151(2).

**41 Amendment of s 236 (Changing amendment application)**

Section 236—

*insert*—

- (2) An applicant can not change an amendment application if the change would, if the application were remade including the change, result in the application not being a properly made amendment application.
- (3) Subsection (2) does not apply to the applicant if the applicant takes the action that would be necessary to make the application a properly made amendment application if it were remade.

[s 42]

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**42 Amendment of s 239 (Application of div 5)**

Section 239, from ‘if’—

*omit, insert—*

if—

- (a) the assessment level decision for an amendment application is that the proposed amendment is a minor amendment; or
- (b) an amendment application is for a condition conversion for an environmental authority.

**43 Amendment of s 240 (Deciding amendment application)**

Section 240(1)(b)—

*omit, insert—*

(b) otherwise—

- (i) within 10 business days after notice of the assessment level decision is given to the applicant; or
- (ii) if the applicant agrees to extend the period mentioned in subparagraph (i) by no more than 20 business days—within the extended period.

**44 Amendment of s 245 (Who may apply)**

Section 245(2), ‘entities’—

*omit, insert—*

persons

**45 Amendment of s 246 (Requirements for amalgamation application)**

(1) Section 246—

*insert—*

- (da) if the application is for an amalgamated corporate authority—be accompanied by an application under section 316L to change the anniversary day for each of the existing environmental authorities to a new day that is the same for all of the authorities; and
  - (db) if the application is for an amalgamated local government authority or amalgamated project authority and the highest annual fee is the same for 2 or more of the existing environmental authorities—nominate the anniversary day for 1 of the authorities with the highest annual fee as the anniversary day for the amalgamated environmental authority; and
- (2) Section 246(da) to (e)—  
*renumber* as section 246(e) to (g).

#### **46 Insertion of new s 247A**

Before section 248—

*insert—*

##### **247A Anniversary day for amalgamated local government authority or amalgamated project authority**

- (1) This section applies if the administering authority decides to approve an amalgamation application for an amalgamated local government authority or amalgamated project authority.
- (2) The anniversary day for the amalgamated environmental authority is—
  - (a) if the highest annual fee is the same for 2 or more of the existing environmental authorities immediately before the approval of the amalgamation application—the



[s 47]

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anniversary day nominated by the applicant under section 246(f); or

- (b) otherwise—the anniversary day for the existing environmental authority that had the highest annual fee immediately before the approval of the amalgamation application.

**47 Amendment of s 248 (Steps after deciding amalgamation application)**

- (1) Section 248—

*insert—*

- (ba) if the administering authority issues an amalgamated local government authority or amalgamated project authority—give the applicant written notice of the anniversary day for the amalgamated environmental authority; and

- (2) Section 248(ba) to (d)—

*renumber* as section 248(c) to (e).

**48 Amendment of s 250B (Requirements for de-amalgamation application)**

- (1) Section 250B—

*insert—*

- (ca) if an ERC decision is, or has been, in effect for the environmental authority—be accompanied by an application under section 298 for an ERC decision for each of the proposed de-amalgamated environmental authorities; and

- (2) Section 250B(ca) and (d)—

*renumber* as section 250B(d) and (e).

---

**49 Amendment of s 250C (De-amalgamation)**

Section 250C—

*insert—*

- (3) Despite subsection (1), if an ERC decision is, or has been, in effect for the environmental authority, the administering authority may only do the things mentioned in subsection (1)(a) to (e) after the administering authority makes an ERC decision for each of the proposed de-amalgamated environmental authorities.

**50 Amendment of s 250D (When de-amalgamation takes effect)**

Section 250D(a)—

*omit, insert—*

- (a) if it relates to a transfer tenure—when both of the following things have happened—
- (i) the transfer tenure is transferred;
  - (ii) the proposed holder of each de-amalgamated environmental authority has paid a contribution to the scheme fund or given a surety for the authority under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*; or

**51 Amendment of s 252 (Who may apply for transfer)**

- (1) Section 252, ‘an entity’—

*omit, insert—*

a person

- (2) Section 252, examples, ‘entity’—

*omit, insert—*

[s 52]

---

person

**52 Amendment of s 256 (Notice to owners of transfer)**

(1) Section 256(1)(a), ‘an entity’—

*omit, insert—*

a person

(2) Section 256(1)(b) and (2), ‘entity’—

*omit, insert—*

person

**53 Amendment of s 262 (Requirements for surrender application)**

(1) Section 262(1)(d)(ii)—

*omit, insert—*

(ii) if the environmental authority is for a resource activity, whether or not a PRCP schedule applies for the activity—a post-surrender management report for land the subject of the application that complies with section 264A; and

(2) Section 262(2)(b)—

*insert—*

(iii) if a post-surrender management report is required for the application—the extent to which the report is accurate; and

(3) Section 262(2)(c)(iii)—

*omit.*

**54 Amendment of s 264 (Requirements for final rehabilitation report)**

(1) Section 264(1)(c), before ‘describe’—

---

*insert—*

for an environmental authority other than for a resource activity,

(2) Section 264(1)(d)—

*omit, insert—*

(d) for an environmental authority for a resource activity, state details of—

(i) the monitoring program and the results of monitoring rehabilitation indicators required under any condition of the environmental authority; and

(ii) any consultation with affected owners and occupiers, members of the public, community groups, government agencies, and other bodies about any completion criteria for rehabilitation stated in the environmental authority; and

(3) Section 264(2)—

*omit.*

## **55 Replacement of s 264A (Requirements for post-mining management report)**

Section 264A—

*omit, insert—*

### **264A Requirements for post-surrender management report**

(1) A post-surrender management report for land the subject of a surrender application must—

(a) be in the approved form; and

(b) include a map of the land showing the location of—

[s 55]

---

- (i) where the resource activities were carried out on the land; and
  - (ii) the site features of the land; and
  - (c) state—
    - (i) whether the particulars of any part of the land are included in the environmental management register or contaminated land register; and
    - (ii) whether a site management plan under chapter 7, part 8 exists for any part of the land; and
  - (d) state any assumptions made in relation to the rehabilitation or future use of the land; and
  - (e) include a risk assessment of the land that complies with the residual risk assessment guideline; and
  - (f) include a risk management plan for the land that complies with subsection (2) if—
    - (i) the risk assessment of the land identifies residual risks for the land for which remedial action or ongoing management activities may need to be carried out in relation to the land; and
    - (ii) the residual risk assessment guideline requires the estimated costs and expenses that may be incurred in carrying out the remedial action or ongoing management activities to be worked out in a stated way; and
  - (g) include any other matters prescribed by regulation.
- (2) A risk management plan for land the subject of a surrender application must be in the approved form and include—

- (a) spatial information about the site features of the land, including the location, size and type of the features; and
- (b) details of the consultation with affected owners and occupiers about—
  - (i) any assumptions made in relation to the rehabilitation or future use of the land; and
  - (ii) the remedial action or ongoing management activities that may need to be carried out in relation to the land; and
- (c) a statement of any assumptions made in relation to the remedial action or ongoing management activities that may need to be carried out in relation to the land; and
- (d) an activity schedule outlining details of any remedial action or ongoing management activities that may need to be carried out in relation to the land; and
- (e) if a site management plan under chapter 7, part 8 for any part of the land provides for carrying out activities that are the same, or substantially the same, as remedial action or ongoing management activities mentioned in the activity schedule—details of how those activities are to be carried out and managed in perpetuity; and
- (f) the estimated amount of the costs and expenses that may be incurred in carrying out remedial action or ongoing management activities mentioned in the activity schedule, worked out as stated in the residual risk assessment guideline.

[s 56]

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**56 Amendment of s 267 (Advice from MRA chief executive about surrender application)**

- (1) Section 267, heading, ‘MRA’—

*omit, insert—*

**relevant resource legislation**

- (2) Section 267(1), ‘MRA department’—

*omit, insert—*

department in which the Mineral Resources Act is administered

- (3) Section 267(2) and (3)—

*renumber* as section 267(3) and (4).

- (4) Section 267—

*insert—*

- (2) Also, the administering authority may, before it decides a surrender application for an environmental authority for a resource activity, seek advice from the chief executive administering the relevant resource legislation about the post-surrender management report for land the subject of the application.

**57 Amendment of s 268 (Criteria for decision generally)**

- (1) Section 268(b)(iii)—

*omit, insert—*

(iii) a final rehabilitation report and post-surrender management report accompanying the application;

- (2) Section 268(b)(v)—

*omit, insert—*

(v) any advice given under section 267 by the chief executive administering the resource legislation;

(3) Section 268(c)(i), ‘rehabilitated’—  
*omit.*

**58 Amendment of s 271 (Payment may be required for residual risks of rehabilitation)**

(1) Section 271, heading, ‘of rehabilitation’—  
*omit.*

(2) Section 271(2)—  
*omit, insert—*

(2) The administering authority may, by written notice, require the applicant to pay the administering authority, or another entity that performs functions under this Act, a stated amount within a stated reasonable period for the residual risks of land the subject of the surrender application.

*Example of another entity—*

the scheme manager under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*

(3) Section 271(4), from ‘the payment’—  
*omit, insert—*

the payment, confirm that the area of the relevant tenure still meets the criteria under section 318ZI against which it was certified.

**59 Amendment of s 273 (Amount and form of payment)**

(1) Section 273(2)—  
*omit, insert—*

(2) The administering authority must have regard to



[s 60]

---

the residual risk assessment guideline in deciding the amount of the payment.

- (2) Section 273(3), ‘rehabilitation’—

*omit, insert—*

management

- (3) Section 273(4), definition *likely rehabilitation costs*—

*omit, insert—*

***likely management costs***, in relation to land the subject of a surrender application, means all likely costs and expenses that may be incurred in carrying out remedial action or ongoing management activities in relation to the land because of residual risks of the land.

## **60 Amendment of s 275 (Steps after deciding surrender application)**

- (1) Section 275(a)(i)—

*omit, insert—*

- (i) record, in the relevant register, the surrender and, if there is a post-surrender management report for land the subject of the application, the existence of the report; and

- (2) Section 275(a)(iii), ‘; or’—

*omit, insert—*

; and

- (iv) if there is a post-surrender management report for land the subject of the application—give written notice of the existence of the report to each owner or occupier of the land; or

---

**61 Insertion of new s 275B**

After section 275A—

*insert—*

**275B Recording of residual risks**

- (1) This section applies if the administering authority approves a surrender application for which there is a post-surrender management report that includes a risk management plan for land the subject of the surrender application.
- (2) As soon as practicable after approving the surrender application, the administering authority must give the registrar of titles written notice of the following—
  - (a) each lot (each an *affected lot*), comprising or included in the land, in relation to which remedial action or ongoing management activities may need to be carried out;
  - (b) the existence of the relevant post-surrender management report for each affected lot.
- (3) The notice must include particulars of each affected lot.
- (4) The registrar must keep records that—
  - (a) show each affected lot is subject to residual risks; and
  - (b) state the places where the relevant post-surrender management report for each affected lot may be inspected.
- (5) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to an affected lot will show—
  - (a) the affected lot is subject to residual risks; and

[s 62]

---

- (b) the existence of the relevant post-surrender management report for the affected lot.
- (6) If the administering authority forms the belief that an affected lot is not or is no longer subject to residual risks—
  - (a) the administering authority must, as soon as practicable after forming the belief, give the registrar written notice of the belief; and
  - (b) the registrar must, as soon as practicable after receiving the notice under paragraph (a), remove the details mentioned in subsection (5)(a) and (b) for the affected lot from the registrar's records.
- (7) In this section—

*lot* means—

  - (a) a lot under the *Land Title Act 1994*; or
  - (b) a separate, distinct parcel of land for which an interest is recorded in a register under the *Land Act 1994*.

*relevant post-surrender management report*, for an affected lot, means the post-surrender management report for the land, the subject of a surrender application, comprising or including the affected lot.

## 62 Insertion of new s 284AA

After section 284—

*insert—*

### **284AA Cancellation after suspension if annual fee not paid**

- (1) This section applies if—
  - (a) the proposed action decision is to take action and the decision has taken effect; and

- 
- (b) the action is suspension of an environmental authority for a suspension period ending when the annual fee for the environmental authority is paid; and
  - (c) the annual fee for the environmental authority is not paid within 20 business days after the proposed action decision takes effect.
- (2) The administering authority may cancel the environmental authority if the procedure under division 2 is followed.
  - (3) The suspension period for the environmental authority continues until the earlier of the following—
    - (a) the end of the suspension period for the environmental authority;
    - (b) the cancellation of the environmental authority.

**63 Amendment of s 291 (Plan of operations required before acting under petroleum lease)**

- (1) Section 291, heading, ‘before acting’—

*omit, insert—*

**to act**

- (2) Section 291, from ‘unless’ to ‘section 292.’—

*omit, insert—*

unless either—

- (a) all of the following apply—
  - (i) the holder has given the administering authority a plan of operations for the petroleum activities;
  - (ii) at least 20 business days, or a shorter period agreed in writing by the

[s 64]

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- administering authority and the holder, have passed since the plan was submitted;
- (iii) the plan complies with section 292;
- (iv) the petroleum activity is carried out in the plan period; or
- (b) all of the following apply—
  - (i) the holder has given the administering authority a replacement plan for the petroleum activities under section 293 at least 20 business days, or a shorter period agreed in writing by the administering authority and the holder, before the original plan ends;
  - (ii) the replacement plan complies with section 293;
  - (iii) the petroleum activity is carried out in the period for the replacement plan mentioned in section 293(7).

#### **64 Amendment of s 293 (Amending or replacing plan)**

- (1) Section 293(2)(b)(i), ‘the replacement plan’—

*omit, insert—*

a replacement plan, in the approved form, that complies with section 292(1)(b) to (d)

- (2) Section 293(2)—

*insert—*

*Note—*

See section 291(b) for conditions about when the holder of an environmental authority for a petroleum activity may carry out, or allow the carrying out of, the activity under the petroleum lease.

---

**65 Amendment of s 300 (Making ERC decision)**

(1) Section 300—

*insert—*

(3A) However, if the decision is for an application that accompanied a de-amalgamation application, the decision must be made—

- (a) within the longer of the periods mentioned in subsection (3) that applies to a decision for any of the proposed de-amalgamated environmental authorities to which the application relates; and
- (b) at the same time as the decision under this section for each of the proposed de-amalgamated environmental authorities to which the application relates.

(2) Section 300(5)(a)—

*omit, insert—*

(a) takes effect on—

- (i) if the decision is for an application that accompanied a de-amalgamation application—the day the de-amalgamation takes effect under section 250D; or
- (ii) otherwise—the day the decision is made; and

(3) Section 300(3A) to (5)—

*renumber* as section 300(4) to (6).

**66 Amendment of s 303 (Administering authority may direct holder to re-apply for ERC decision)**

(1) Section 303(1)(c)—

*omit, insert—*

[s 67]

---

(c) becomes aware an ERC decision was made on the basis of materially incorrect or misleading information.

(2) Section 303(2)(a), from ‘or,’ to ‘holders,’—

*omit.*

(3) Section 303(2)(b), ‘, or each of the holders,’—

*omit.*

**67 Amendment of s 304 (When holder must re-apply for ERC decision)**

(1) Section 304(1)(c), ‘section 316I’—

*omit, insert—*

section 316IA

(2) Section 304(1)(e) and (2)(d)—

*omit.*

**68 Amendment of s 306 (Effect of amalgamation or de-amalgamation of environmental authority on ERC decision)**

(1) Section 306, heading, ‘or de-amalgamation’—

*omit.*

(2) Section 306(1)(b)—

*omit, insert—*

(b) the administering authority approves an application to amalgamate the environmental authority for the resource activity with another environmental authority under section 247.

(3) Section 306(2), from ‘For’ to ‘on’—

*omit, insert—*

On

- (4) Section 306(3)—  
*omit.*
- (5) Section 306(4) and (5), ‘or (3)(b)’—  
*omit.*
- (6) Section 306(4) and (5)—  
*renumber* as section 306(3) and (4).

**69 Relocation and renumbering of ch 5A, pt 3 (Codes of practice)**

- (1) Chapter 5A, part 3—  
*relocate* to chapter 12 and *renumber* as part 1A of that chapter.
- (2) Section 318E—  
*renumber* as section 551.

**70 Amendment of s 318F (Application for registration)**

Section 318F(1), ‘An entity’—  
*omit, insert*—  
A person

**71 Amendment of s 318R (Investigation of applicant suitability or disqualifying events)**

- (1) Section 318R(1)(b), ‘another person’—  
*omit, insert*—  
entity
- (2) Section 318R(2) and (3), after ‘person’—  
*insert*—  
or entity



[s 72]

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**72 Replacement of ch 5A, pt 6, hdg, ch 5A, pt 6, div 1, hdg and ch 5A, pt 6, div 1, sdiv 1, hdg**

Chapter 5A, part 6, heading, chapter 5A, part 6, division 1, heading and chapter 5A, part 6, division 1, subdivision 1, heading—

*omit, insert—*

**Part 6 Progressive certification for resource activities**

**Division 1 Preliminary**

**73 Amendment of s 318Z (What is *progressive certification*)**

Section 318Z(3), '*rehabilitated*'—

*omit.*

**74 Amendment of s 318ZD (Requirements for progressive certification application)**

(1) Section 318ZD(1)(c)(i) and (2)(b)(ii), '*rehabilitation*'—

*omit, insert—*

certification

(2) Section 318ZD(2)(b)(i), '*rehabilitated*'—

*omit.*

**75 Replacement of s 318ZF (Requirements for progressive rehabilitation report)**

Section 318ZF—

*omit, insert—*

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### **318ZF Requirements for progressive certification report**

The progressive certification report must—

- (a) contain the following information—
  - (i) if a PRCP schedule applies for the relevant activities carried out in the proposed certified area—
    - (A) information showing how the rehabilitation milestones and management milestones under the PRCP schedule have been achieved; and
    - (B) information about the extent to which the relevant conditions stated in the PRCP schedule have been complied with;
  - (ii) otherwise—information required under section 264, as if a reference in the section to land were a reference to the proposed certified area; and
- (b) include—
  - (i) a map of an appropriate scale that shows the proposed certified area; and
  - (ii) relevant information to locate the proposed certified area, including, for example, GPS information or a survey; and
- (c) if progressive certification has previously been given for a relevant tenure for the environmental authority—
  - (i) state when the certification was given; and
  - (ii) identify the certified area the subject of the certification.

[s 76]

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## **76 Amendment of s 318ZI (Criteria for decision)**

(1) Section 318ZI(1)(b)(ii)—

*omit, insert—*

(ii) the progressive certification report accompanying the application;

(2) Section 318ZI(1)(b)(iv), ‘rehabilitated’—

*omit.*

(3) Section 318ZI(2)—

*omit, insert—*

(2) The administering authority may give the progressive certification only if the administering authority is satisfied of each of the following circumstances—

(a) the conditions of the environmental authority have been complied with for the proposed certified area;

(b) if the environmental authority is subject to conditions about rehabilitation and a PRCP schedule does not apply for the proposed certified area—the land on which each relevant resource project has been carried out in relation to the area has been satisfactorily rehabilitated;

(c) if a PRCP schedule applies for the proposed certified area—the schedule has been complied with in relation to the area;

(d) each other circumstance (if any) prescribed by regulation as a circumstance of which the administering authority must be satisfied for this section.

## **77 Amendment of s 318ZJ (Steps after making decision)**

(1) Section 318ZJ(1)(a)(ii), ‘rehabilitated’—

*omit.*

(2) Section 318ZJ(2)—

*omit.*

**78 Omission of ch 5A, pt 6, div 2 (Payment for residual risks of rehabilitation)**

Chapter 5A, part 6, division 2—

*omit.*

**79 Amendment of s 320A (Application of div 2)**

(1) Section 320A(2)(a)(i), ‘contaminated’—

*omit.*

(2) Section 320A(2)(b)—

*omit, insert—*

(b) becomes aware of—

- (i) the happening of an event involving a hazardous contaminant on the land that is causing, or is reasonably likely to cause, serious or material environmental harm; or
- (ii) if the land is contaminated land—a change in the condition of the land that is causing, or is reasonably likely to cause, serious or material environmental harm; or
- (iii) a notifiable activity having been carried out, or being carried out, on the land.

(3) Section 320A(3)—

*omit, insert—*

(3) This division applies to a local government that becomes aware of—

[s 80]

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- (a) the happening of an event involving a hazardous contaminant in the local government area that is causing, or is reasonably likely to cause, serious or material environmental harm; or
- (b) a change in the condition of contaminated land in the local government area that is causing, or is reasonably likely to cause, serious or material environmental harm; or
- (c) a notifiable activity having been carried out, or being carried out, on land in the local government area.

*Note—*

See subdivision 3B for the duty of a local government mentioned in subsection (3).

## **80 Amendment of s 363F (Definitions for pt 5B)**

Section 363F, definition *contamination incident*, paragraph (b), ‘the land or any’—

*omit.*

## **81 Insertion of new ch 8A**

After chapter 8—

*insert—*

# **Chapter 8A Rehabilitation commissioner**

## **Part 1 Appointment**

### **444A Appointment**

(1) The Governor in Council may, on the

recommendation of the Minister, appoint a rehabilitation commissioner.

- (2) The Minister may recommend a person for appointment only if the Minister is satisfied the person is appropriately qualified to perform the functions of the rehabilitation commissioner.
- (3) The rehabilitation commissioner is appointed under this Act and not the *Public Service Act 2008*.
- (4) The rehabilitation commissioner may be appointed on a full-time or part-time basis.

#### **444B Term of appointment**

- (1) The rehabilitation commissioner holds office for the term decided by the Governor in Council.
- (2) However, the term can not be—
  - (a) less than 1 year; or
  - (b) more than 5 years.
- (3) The rehabilitation commissioner may be reappointed.

#### **444C Remuneration and conditions**

- (1) The rehabilitation commissioner is to be paid the remuneration and other allowances decided by the Governor in Council.
- (2) The remuneration must not be reduced during the rehabilitation commissioner's term of office without the rehabilitation commissioner's written consent.
- (3) The rehabilitation commissioner holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

#### **444D Leave of absence**

The Minister may approve a leave of absence for the rehabilitation commissioner.

#### **444E Vacancy in office**

- (1) The office of the rehabilitation commissioner becomes vacant if the rehabilitation commissioner—
  - (a) completes a term of office and is not reappointed; or
  - (b) resigns office by signed notice given to the Minister; or
  - (c) is convicted of an indictable offence; or
  - (d) is removed from office by the Governor in Council under section 444F(1).
- (2) Also, if the rehabilitation commissioner is suspended by the Minister under section 444F(3), the office is vacant during the period of suspension.

#### **444F Removal from office**

- (1) The Governor in Council may, at any time, remove the rehabilitation commissioner from office on the recommendation of the Minister.
- (2) The Minister may recommend the rehabilitation commissioner's removal from office only if the Minister is satisfied the rehabilitation commissioner—
  - (a) has been guilty of misconduct, including contravention of the *Integrity Act 2009*, section 72D; or
  - (b) is incapable of performing his or her duties; or

- (c) has neglected his or her duties or performed them incompetently.
- (3) The Minister may suspend the rehabilitation commissioner for up to 60 days by signed notice to the rehabilitation commissioner if—
  - (a) there is an allegation of misconduct against the rehabilitation commissioner; or
  - (b) the Minister is satisfied a matter has arisen in relation to the rehabilitation commissioner that may be grounds for removal from office under this section.

#### **444G Acting rehabilitation commissioner**

- (1) The Minister may appoint an appropriately qualified person to act as rehabilitation commissioner—
  - (a) during a vacancy in the office; or
  - (b) during any period, or during all periods, when the rehabilitation commissioner is absent from duty or from the State or can not, for another reason, perform his or her duties.
- (2) The acting rehabilitation commissioner is appointed under this Act and not the *Public Service Act 2008*.

#### **444H Preservation of rights**

- (1) This section applies if a public service officer is appointed as the rehabilitation commissioner.
- (2) The person is entitled to retain all accrued or accruing rights as if service as the rehabilitation commissioner were a continuation of service as a public service officer.
- (3) At the end of the person's term of office or



[s 81]

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resignation as the rehabilitation commissioner, the person's service as the rehabilitation commissioner is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

## **Part 2                      Functions and powers**

### **444I Functions**

The rehabilitation commissioner has the following functions—

- (a) providing advice to the Minister on—
  - (i) rehabilitation and management practices, outcomes and policies; and
  - (ii) public interest evaluation processes and performance;
- (b) developing technical and evidence-based reports on complex aspects related to the rehabilitation of land or best practice management of non-use management areas;
- (c) if asked by the chief executive and the rehabilitation commissioner considers it appropriate—providing guidance on the interpretation of advice or reports prepared under paragraph (a) or (b);
- (d) monitoring, and providing reports to the Minister on, rehabilitation performance and trends;
- (e) consulting on, and raising awareness of, rehabilitation and management matters;
- (f) chairing workshops and forums about technical, scientific or engagement matters;

- (g) the other functions given to the rehabilitation commissioner under this Act.

#### **444J Powers**

The rehabilitation commissioner has power to—

- (a) enter into contracts or agreements; and
- (b) appoint agents or attorneys; and
- (c) engage consultants or contractors; and
- (d) do anything else necessary or convenient to be done in the performance of the rehabilitation commissioner's functions.

*Examples of things the rehabilitation commissioner has power to do under paragraph (d)—*

- access information held by an administering authority
- ask an entity to give the rehabilitation commissioner access to information held by the entity

#### **444K Publication of advice, reports and guidance**

- (1) The rehabilitation commissioner must publish on a Queensland government website advice, reports and guidance prepared in the exercise of the functions mentioned in section 444I(a), (b), (c) or (d).
- (2) Advice, reports and guidance mentioned in subsection (1) must be published in a way that does not disclose confidential information.
- (3) In this section—

***Queensland government website*** means a website with a URL that contains 'qld.gov.au', other than the website of a local government.

[s 81]

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#### **444L Delegation**

- (1) The rehabilitation commissioner may delegate the rehabilitation commissioner's functions under this Act, other than the functions under section 444I(a), (b), (c) or (d), to an appropriately qualified officer or employee whose services are made available under section 444M(1).
- (2) In this section—  
*functions* includes powers.

#### **444M Staff services from government agency**

- (1) The rehabilitation commissioner may, with the agreement of the chief executive of a government agency, arrange for the services of officers or employees of the agency to be made available to the rehabilitation commissioner.
- (2) An officer or employee whose services are made available under subsection (1)—
  - (a) continues to be an officer or employee of the government agency; and
  - (b) continues to be employed or otherwise engaged by the government agency on the same terms and conditions applying to the officer or employee immediately before the services were made available; and
  - (c) is subject to the direction of the rehabilitation commissioner only in relation to the services made available to the rehabilitation commissioner and for the performance of the rehabilitation commissioner's functions; and
  - (d) is not subject to the direction of the chief executive of the government agency in relation to the services made available to the rehabilitation commissioner and for the

performance of the rehabilitation commissioner's functions.

- (3) Nothing in subsection (1) requires the chief executive of a government agency to enter into an arrangement mentioned in that subsection.
- (4) In this section—  
*government agency* means—
  - (a) a department or an administrative unit within a department; or
  - (b) a government owned corporation or a subsidiary of a government owned corporation; or
  - (c) an entity that is established under an Act and represents the State; or
  - (d) a local government.

#### **444N Ministerial direction**

- (1) The Minister may give the rehabilitation commissioner a written direction (a *ministerial direction*) about the performance of the rehabilitation commissioner's functions or the exercise of the rehabilitation commissioner's powers.
- (2) However, the Minister may not give a ministerial direction about the content of any advice, report or guidance prepared by the rehabilitation commissioner.
- (3) The rehabilitation commissioner must comply with a ministerial direction.

#### **444O Annual report**

- (1) Within 4 months after the end of each financial year, the rehabilitation commissioner must give

[s 82]

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the Minister a report about the operations of the rehabilitation commissioner during the year.

- (2) Without limiting subsection (1), the report must include details of the following during the financial year—
  - (a) the performance of the rehabilitation commissioner's functions and the exercise of the rehabilitation commissioner's powers;
  - (b) the administration of this chapter;
  - (c) rehabilitation performance and trends;
  - (d) details of—
    - (i) any interest disclosed by the rehabilitation commissioner under the *Integrity Act 2009*, section 72D(1)(a); and
    - (ii) any action authorised by the Minister under the *Integrity Act 2009*, section 72D(1)(b);
  - (e) details of—
    - (i) each direction given by the Minister under section 444N; and
    - (ii) action taken by the rehabilitation commissioner because of the direction.
- (3) The report must not be prepared in a way that discloses confidential information.
- (4) The Minister must table a copy of the rehabilitation commissioner's report in the Legislative Assembly within 14 sitting days after receiving it.

## **82 Amendment of s 515 (Delegation by Minister)**

Section 515—

*insert—*

- (2) However, the Minister can not delegate the power to give the rehabilitation commissioner a written direction under section 444N(1).

**83 Amendment of s 516 (Delegation by chief executive)**

- (1) Section 516—

*insert—*

- (1A) However, the chief executive can not delegate the power to ask the rehabilitation commissioner to provide guidance under section 444I(c).

- (2) Section 516(1A) and (2)—

*renumber* as section 516(2) and (3).

**84 Amendment of s 521 (Procedure for review)**

- (1) Section 521(2)(a), after ‘within’—

*insert—*

the following period (the *review application period*)

- (2) Section 521(2)(a)(i), ‘; or’—

*omit, insert—*

;

- (3) Section 521(3)—

*omit, insert—*

- (3) The administering authority must, within 5 business days after the end of the review application period or, if 2 or more applications are received in relation to the original decision, the end of the latest of the review application periods, send the following documents to the other persons who were given notice under this Act of the original decision—

[s 84]

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- (a) notice of the application (the *review notice*);
  - (b) either—
    - (i) a copy of the application and supporting documents; or
    - (ii) details of where a copy of the application and supporting documents may be inspected or accessed.
- (4) Section 521(4), ‘application is made to the authority’—  
*omit, insert—*  
day the authority sends the review notice to the recipient
- (5) Section 521(5), from ‘is satisfied’ to ‘(3)’—  
*omit, insert—*  
receives only 1 application in relation to the original decision and is satisfied the applicant has complied with subsection (2)
- (6) Section 521—  
*insert—*
- (5A) If the administering authority receives 2 or more applications in relation to the original decision and is satisfied the applicants have complied with subsection (2), the authority must, within the decision period—
    - (a) review the original decision; and
    - (b) consider any submissions properly made by a recipient of any of the review notices; and
    - (c) make 1 decision (also the *review decision*) in relation to the applications to—
      - (i) confirm or revoke the original decision; or

- (ii) vary the original decision in a way the administering authority considers appropriate.

(7) Section 521(6)—

*insert—*

*Note—*

See part 3, division 4 in relation to stays.

(8) Section 521(8), after ‘given notice’—

*insert—*

under this Act

(9) Section 521(10) ‘subsection (5) or (8)’—

*omit, insert—*

subsection (5), (6) or (9)

(10) Section 521(11) ‘Subsection (7)’—

*omit, insert—*

Subsection (8)

(11) Section 521(14), definition *decision period*—

*omit, insert—*

***decision period***, for a review of an original decision, means—

- (a) if only 1 application is received in relation to the original decision and a submission is received within the submission period—
  - (i) 20 business days after the administering authority receives the application; or
  - (ii) the longer period, of not more than 5 additional business days, the authority in special circumstances decides; or



[s 84]

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- (b) if only 1 application is received in relation to the original decision and no submissions are received within the submission period—
    - (i) 15 business days after the administering authority receives the application; or
    - (ii) the longer period, of not more than 5 additional business days, the authority in special circumstances decides; or
  - (c) if 2 or more applications are received in relation to the original decision and a submission is received within the submission period for at least 1 of the applications—
    - (i) 20 business days after the administering authority receives the latest of the applications; or
    - (ii) the longer period, of not more than 5 additional business days, the authority in special circumstances decides; or
  - (d) if 2 or more applications are received in relation to the original decision and no submissions are received within the submission period for any of the applications—
    - (i) 15 business days after the administering authority receives the latest of the applications; or
    - (ii) the longer period, of not more than 5 additional business days, the authority in special circumstances decides.
- (12) Section 521(5A) to (14)—  
*renumber* as section 521(6) to (15).

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**85 Amendment, relocation and renumbering of s 522 (Stay of operation of particular original decisions)**

(1) Section 522, heading, ‘particular original decisions’—

*omit, insert—*

**original decisions for internal review**

(2) Section 522(1), before ‘review’—

*insert—*

internal

(3) Section 522(2), from ‘to secure’—

*omit, insert—*

only if it considers the stay is desirable having regard to the following—

- (a) the interests of any person whose interests may be affected by the granting of the stay or the stay not being granted;
- (b) any submission made to the Land Court or the Court by the entity that made the original decision;
- (c) the public interest.

(4) Section 522(4), from ‘the time’—

*omit, insert—*

the end of the period within which an appeal against the review decision may be started under section 525 or 532.

(5) Section 522(5), ‘sections 522A and 522B’—

*omit, insert—*

sections 539C and 539D

(6) Section 522—

*insert—*

(6) In this section—

[s 86]

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*internal review*, of an original decision, means a review of the decision under section 521.

(7) Section 522—

*relocate* to chapter 11, part 3, division 4 as inserted by this Act and *renumber* as section 539A.

**86 Amendment, relocation and renumbering of s 522A (Stay of decision about financial assurance)**

(1) Section 522A(1), ‘section 522’—

*omit, insert*—

section 539A or 539B

(2) Section 522A—

*relocate* to chapter 11, part 3, division 4 as inserted by this Act and *renumber* as section 539C.

**87 Amendment, relocation and renumbering of s 522B (Stay of particular decisions if unacceptable risk of environmental harm)**

(1) Section 522B(1), ‘section 522’—

*omit, insert*—

section 539A or 539B

(2) Section 522B(1)(c), ‘; or’—

*omit, insert*—

.

(3) Section 522B—

*relocate* to chapter 11, part 3, division 4 as inserted by this Act and *renumber* as section 539D.

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**88 Amendment, relocation and renumbering of s 522C  
(Effect of stay of ERC decision)**

(1) Section 522C(1)—

*omit, insert—*

(1) This section applies if 1 of the following decisions is stayed—

- (a) an original decision that is an ERC decision;
- (b) an original decision appealed against to the Land Court if the decision is an ERC decision that is confirmed or varied by a review decision.

(2) Section 522C—

*relocate* to chapter 11, part 3, division 4 as inserted by this Act and *renumber* as section 539F.

**89 Omission of s 529 (Effect of stay on particular decisions)**

Section 529—

*omit.*

**90 Amendment of s 533 (Appellant to give notice of appeal to other parties)**

Section 533(1)(a) and (b), after ‘notice’—

*insert—*

under this Act

**91 Amendment, relocation and renumbering of s 535 (Stay of operation of decisions)**

(1) Section 535, heading, after ‘decisions’—

*insert—*

**appealed against to Land Court or Court**

[s 92]

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- (2) Section 535, before subsection (1)—  
*insert*—
- (1A) This section applies to—
- (a) an original decision appealed against to the Court if section 521 does not apply to the decision; or
- (b) an original decision appealed against to the Land Court or the Court if the decision is confirmed or varied by a review decision.
- (3) Section 535(1) to (3), before ‘Court’—  
*insert*—
- Land Court or the
- (4) Section 535(5), ‘sections 535A to 535C’—  
*omit, insert*—
- sections 539C to 539E
- (5) Section 535(1A) to (5)—  
*renumber* as section 535(1) to (6).
- (6) Section 535—  
*relocate* to chapter 11, part 3, division 4 as inserted by this Act and *renumber* as section 539B.

**92 Amendment, relocation and renumbering of s 535A (Stay of decision to issue a clean-up notice)**

- (1) Section 535A(1), ‘section 535’—  
*omit, insert*—
- section 539B
- (2) Section 535A—  
*relocate* to chapter 11, part 3, division 4 as inserted by this Act and *renumber* as section 539E.

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**93 Omission of ss 535B and 535C**

Sections 535B and 535C—

*omit.*

**94 Insertion of new ch 11, pt 3, div 4, hdg**

Chapter 11, part 3, after section 539—

*insert—*

**Division 4            Stays**

**95 Amendment of s 540 (Registers to be kept by administering authority)**

(1) Section 540(1)(a)(ix) to (xii)—

*renumber* as section 540(1)(a)(x) to (xiii).

(2) Section 540(1)(a)—

*insert—*

(ix) post-surrender management reports;

**96 Amendment of s 754 (Requirement for mining EA holders to give proposed PRC plan)**

Section 754(2)(b)—

*omit, insert—*

(b) ending—

(i) on the day that is 3 years after the PRCP start date; or

(ii) if the environmental authority is issued on or after the day mentioned in subparagraph (i)—within 6 months after the environmental authority is issued.

[s 97]

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## 97 Insertion of new ss 765A and 765B

After section 765—

*insert—*

### **765A Application of part if holder of environmental authority changes**

- (1) This section applies if, on or after the commencement of a provision of this part (the *relevant provision*)—
  - (a) a mining EA holder for an environmental authority stops being the holder of the environmental authority; and
  - (b) another person (the *transferee*) becomes the holder of the environmental authority.
- (2) From the day the transferee becomes the holder of the environmental authority (the *transfer day*), a reference in the relevant provision to the mining EA holder is taken to include a reference to the transferee.
- (3) If, before the transfer day, the administering authority gave a notice under section 754(1) to the mining EA holder, from the transfer day—
  - (a) the notice is taken to have been given to the transferee; and
  - (b) anything done by the mining EA holder to comply with the notice is taken to have been done by the transferee.

### **765B Application of s 431A for particular mining EA holders**

- (1) This section applies—
  - (a) to a mining EA holder for a mining lease who was required to have a plan of operations under the pre-amended Act if, before 1 April 2019—

- (i) the holder gave a plan of operations for the mining lease to the administering authority; and
  - (ii) the plan period for the holder's plan of operations ended; and
  - (iii) a new plan of operations was not given to the administering authority; or
- (b) to a mining EA holder for a mining lease who was required to have a plan of operations under the pre-amended Act but, at the beginning of 1 April 2019, had not complied with the requirement; or
  - (c) to a mining EA applicant who became or becomes a mining EA holder on or after 1 April 2019.
- (2) However, this section applies only if section 431A has not started to apply to the holder before the commencement.
  - (3) Section 431A does not apply to the holder until the earlier of the following days—
    - (a) the day the holder fails to give the administering authority a proposed PRC plan in compliance with a notice given to the holder under section 754;
    - (b) the day a PRCP schedule is approved for the holder.
  - (4) However, subsection (5) applies if the holder fails to comply with a notice given to the holder under section 754 because—
    - (a) the holder purported to give the administering authority a proposed PRC plan in compliance with the notice; and
    - (b) the administering authority has given the holder written notice for a decision to refuse



[s 98]

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to approve the proposed PRCP schedule for the proposed PRC plan.

- (5) Section 431A does not apply to the holder until—
- (a) if the holder reapplies for approval of another proposed PRCP schedule within 40 business days after the written notice mentioned in subsection (4)(b) was given, the day the administering authority—
    - (i) issues a PRCP schedule under section 195; or
    - (ii) gives the holder written notice refusing to approve the other PRCP schedule; or
  - (b) otherwise—40 business days after the written notice mentioned in subsection (4)(b) was given.

## 98 Insertion of new ch 13, pt 30

Chapter 13—

*insert—*

### **Part 30**

### **Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2020**

#### **777 Definition for part**

In this part—

*amendment Act* means the *Environmental Protection and Other Legislation Amendment Act 2020*.

### **778 Existing applications for environmental authorities**

- (1) This section applies to an application for an environmental authority made, but not decided, under this Act before the commencement.
- (2) Chapter 5, parts 2 to 5 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

### **779 Existing amendment applications**

- (1) This section applies to an amendment application made, but not decided, under this Act before the commencement.
- (2) Chapter 5 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

### **780 Existing amalgamation and de-amalgamation applications**

- (1) This section applies to an amalgamation or de-amalgamation application made, but not decided, under this Act before the commencement.
- (2) Chapter 5, part 8 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

### **781 Existing transfer applications**

- (1) This section applies if a transfer application is made, but not decided, under this Act before the commencement.
- (2) Chapter 5, part 9 as in force immediately before the commencement applies to the application as if

[s 98]

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the amendment Act had not been enacted.

- (3) Section 256(2) as in force immediately before the commencement applies in relation to an entity if—
  - (a) the transfer application is decided after the commencement; and
  - (b) the entity is issued a transferred environmental authority; and
  - (c) the entity is not the owner of the land to which the authority relates.

### **782 Existing surrender applications**

- (1) This section applies to a surrender application made, but not decided, under this Act before the commencement.
- (2) Chapter 5, part 10 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

### **783 Existing suspension periods for environmental authorities**

- (1) This section applies if—
  - (a) a proposed action decision to suspend an environmental authority took effect before the commencement; and
  - (b) the suspension period had not ended immediately before the commencement.
- (2) Chapter 5, part 11 as in force immediately before the commencement applies to the environmental authority as if the amendment Act had not been enacted.

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## 784 Existing de-amalgamated environmental authorities

- (1) This section applies if—
  - (a) before the commencement—
    - (i) the administering authority de-amalgamated an environmental authority under section 250C; and
    - (ii) neither of the following things happened—
      - (A) the administering authority directed each of the holders of a de-amalgamated environmental authority, under pre-amended section 303(2)(a), to re-apply for an ERC decision;
      - (B) the holder of a de-amalgamated environmental authority was required, under pre-amended section 304(2)(d), to re-apply for an ERC decision; and
  - (b) after the commencement, either of the things mentioned in paragraph (a)(ii)(A) or (B) would be able to happen if the amendment Act had not been enacted.
- (2) Chapter 5, part 14, division 1 as in force immediately before the commencement applies to the de-amalgamated environmental authority as if the amendment Act had not been enacted.
- (3) In this section—

*pre-amended*, in relation to a provision of this Act, means the provision as in force before the commencement.

[s 98]

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### **785 Existing re-applications for ERC decisions**

- (1) This section applies if, before the commencement—
  - (a) either—
    - (i) the administering authority directed each of the holders of a de-amalgamated environmental authority, under pre-amended section 303(2)(a), to re-apply for an ERC decision; or
    - (ii) the holder of a de-amalgamated environmental authority was required, under pre-amended section 304(2)(d), to re-apply for an ERC decision; and
  - (b) the ERC decision re-applied for had not taken effect.
- (2) Chapter 5, part 14, division 1 as in force immediately before the commencement applies to the re-application for the ERC decision as if the amendment Act had not been enacted.
- (3) In this section—

*pre-amended*, in relation to a provision of this Act, means the provision as in force before the commencement.

### **786 Application of s 303 to ERC decisions made before commencement**

Section 303(1)(c) applies to an ERC decision whether the ERC decision was made before or after the commencement.

### **787 Application of provisions in relation to environmental authorities held by entities**

- (1) This section applies in relation to—

- (a) an environmental authority held on the commencement by an entity that is not a person; or
  - (b) an environmental authority issued, under this part, after the commencement to an entity that is not a person.
- (2) This Act applies in relation to the environmental authority as if a reference in a provision to a person in the context of the holder of the authority included a reference to an entity that is not a person.

### **788 Existing applications for registration of suitable operators**

- (1) This section applies to an application to be registered as a suitable operator made, but not decided, under this Act before the commencement.
- (2) Chapter 5A, part 4 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

### **789 Existing progressive certification applications**

- (1) This section applies to a progressive certification application made, but not decided, under this Act before the commencement.
- (2) Chapter 5A, part 6 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

### **790 Existing review applications**

- (1) This section applies if a review application is made, but not decided, under this Act before the commencement.

[s 99]

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- (2) Section 521 as in force immediately before the commencement applies to the review application and a related application for the review application as if the amendment Act had not been enacted.
- (3) In this section—
- related application*, for a review application (the *first review application*), means a review application in relation to the original decision to which the first review application relates.
- review application* means an application under section 521.

### **791 Existing applications for stays**

- (1) This section applies to an application for a stay made, but not decided, under this Act before the commencement.
- (2) Chapter 11, part 3 as in force immediately before the commencement applies to the application as if the amendment Act had not been enacted.

## **99 Amendment of sch 2 (Original decisions)**

- (1) Schedule 2, authorising provision—  
*omit, insert—*  
sections 519(1), 523 and 539A
- (2) Schedule 2, part 1, division 3—  
*insert—*

227AAB(2) decision to give notice stating that an amendment application for an environmental authority for a resource activity is not a properly made amendment application

- 
- (3) Schedule 2, part 1, division 3, entry for section 318ZJA, ‘rehabilitated’—

*omit.*

- (4) Schedule 2, part 1, division 4, entry for section 318ZL(1)—

*omit.*

- (5) Schedule 2, part 2, division 2—

*insert—*

227AAB(2) decision to give notice stating that an amendment application for an environmental authority for a prescribed ERA is not a properly made amendment application

- (6) Schedule 2, part 3—

*insert—*

73C(1)(a) decision that an EIS would be required under this Act for an application for an environmental authority for a project

## 100 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *application documents*, *certified rehabilitated area*, *MRA department*, *person*, *progressive rehabilitation report*, *proponent*, *relevant area* and *residual risks*—

*omit.*

- (2) Schedule 4—

*insert—*

***application documents***, for an application for an environmental authority, a proposed PRC plan or an amendment application for an environmental authority or PRCP schedule, means each of the following—



[s 100]

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- (a) the properly made application for the environmental authority, the proposed PRC plan or the properly made amendment application for the environmental authority or PRCP schedule;
- (b) if an EIS is submitted under chapter 3, part 1 for the relevant activity—
  - (i) the submitted EIS; and
  - (ii) any EIS assessment report for the submitted EIS;
- (c) if the application, proposed PRC plan or amendment application relates to a coordinated project—
  - (i) any EIS or IAR prepared for the project under the State Development Act, part 4; and
  - (ii) any report under the State Development Act, section 34D evaluating an EIS for the project;
- (d) for a site-specific application for a mining activity relating to a mining lease—the proposed PRC plan for the application.

***certified area***, for a relevant tenure for a resource project, see section 318Z(3).

***EA application***, for chapter 3, part 3, see section 73(2).

***Great Barrier Reef catchment waters*** see section 112.

***person***, for chapter 3, part 1, see section 39.

***post-surrender management report***, for land the subject of a surrender application, means a post-surrender management report prepared under chapter 5, part 10, division 3 for the land.

***properly made amendment application***, for

chapter 5, part 7, see section 227AAA.

***proponent***—

- (a) for a project, means the person who proposes the project; or
- (b) for chapter 3, part 1, see section 39.

***proposed PRC plan***, for an application, means a PRC plan proposed for land the subject of a mining lease that—

- (a) complies with chapter 5, part 2, division 3; and
- (b) either—
  - (i) accompanies the application; or
  - (ii) is submitted for the application after the application is made.

***rehabilitation commissioner*** means the rehabilitation commissioner appointed under section 444A.

***residual risk assessment guideline*** means a guideline called ‘The Residual Risk Assessment Guideline’—

- (a) prepared by the chief executive; and
- (b) published—
  - (i) on the administering authority’s website; and
  - (ii) in other publicly available ways the administering authority considers appropriate.

***residual risks***, of land, means either or both of the following to the extent it relates to resource activities carried out on the land—

- (a) the risk that, although the land has been rehabilitated and appropriately managed,

[s 100]

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remedial action will need to be carried out in relation to the land in the foreseeable future;

- (b) the risk that ongoing management activities will need to be carried out in relation to the land, including—
- (i) monitoring the condition of the land or site features of the land; and
  - (ii) taking action to prevent or minimise environmental harm caused by the land or site features of the land.

*Examples of ongoing management activities—*

- maintaining fences to ensure the safety of steep slopes or to prevent access to contaminated areas
- providing a pump-back system to manage the discharge of contaminants
- continuing a monitoring and verification plan under the GHG storage Act to ensure GHG stream storage under that Act is taking place as predicted

***risk management plan***, for land the subject of a surrender application, means a risk management plan included in a post-surrender management report for the land.

***single integrated operation*** see section 113.

***site features***, of land, means each of the following—

- (a) surface and subsurface infrastructure on the land related to resource activities;
- (b) other structures on the land related to resource activities;
- (c) modifications of the land related to resource activities carried out on the land.

*Examples of modifications of land—*

tailings storage facilities, voids, waste rock dumps

- 
- (3) Schedule 4, definition *anniversary day*, paragraph 2—  
*omit, insert—*
- 2 Also—
- (a) if the anniversary day for an environmental authority is changed under chapter 5, part 15, division 3, the *anniversary day* for the authority is the day as changed; or
- (b) if the administering authority decides to approve an amalgamation application for an amalgamated local government authority or amalgamated project authority, the *anniversary day* for the amalgamated environmental authority is the day stated in section 247A.
- (4) Schedule 4, definition *anniversary day*, paragraph 3, ‘amalgamated’—  
*omit, insert—*
- de-amalgamated
- (5) Schedule 4, definition *code of practice*, ‘section 318E(1)’—  
*omit, insert—*
- section 551(1)
- (6) Schedule 4, definition *designated precinct*, ‘section 16(3)’—  
*omit, insert—*
- section 15(3)
- (7) Schedule 4, definition *environmental record*, from ‘holder’ to ‘holder’s’—  
*omit, insert—*
- person, means the person’s
- (8) Schedule 4, definition *replacement environmental authority*—

[s 101]

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*insert—*

(e) if the administering authority de-amalgamates an environmental authority under section 250C—each of the de-amalgamated environmental authorities issued under section 250C(1)(c).

(9) Schedule 4, definition *review decision*, ‘section 521(5)(c)’—  
*omit, insert—*

section 521(5)(c) and (6)(c)

## **Part 3**

# **Amendment of Mineral and Energy Resources (Financial Provisioning) Act 2018**

### **101 Act amended**

This part amends the *Mineral and Energy Resources (Financial Provisioning) Act 2018*.

*Note—*

See also the amendments in schedule 1.

### **102 Amendment of long title**

Long title, after ‘activities’—

*insert—*

**, and to administer payments made for residual risks arising from resource activities**

### **103 Amendment of s 3 (Main purposes)**

Section 3—

*insert—*

- (e) to administer payments received by the State under the *Environmental Protection Act 1994* for residual risks of land on which resource activities have been carried out.

**104 Amendment of s 4 (How main purposes to be achieved)**

- (1) Section 4—

*insert—*

- (ab) establishing a residual risks fund; and

- (2) Section 4(b), after ‘scheme’—

*insert—*

and administer the residual risks fund

- (3) Section 4(c)—

*omit, insert—*

- (d) providing for the person mentioned in paragraph (c)—

- (i) for managing the scheme—to make payments from the scheme fund and the cash surety account, enter into surety arrangements, and call on and release sureties; and

- (ii) for administering the residual risks fund—to make payments from the residual risks fund.

- (4) Section 4(ab) and (b)—

*renumber* as section 4(b) and (c).

**105 Amendment of pt 2, hdg (Establishment of scheme)**

Part 2, heading, after ‘scheme’—

*insert—*

**and residual risks fund**

[s 106]

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## **106 Amendment of s 21 (Functions)**

(1) Section 21(1)—

*insert—*

(ca) administering the residual risks fund;

(2) Section 21(1)(d), after ‘part of the scheme fund’—

*insert—*

, and for the residual risks fund or part of the residual risks fund,

(3) Section 21(1)(ca) and (d)—

*renumber* as section 21(1)(d) and (e).

(4) Section 21(2), ‘subsection (1)(d)’—

*omit, insert—*

subsection (1)(e)

## **107 Insertion of new pt 2, div 3**

Part 2—

*insert—*

### **Division 3 Residual risks fund**

#### **25A Establishment of residual risks fund**

- (1) The Residual Risks Fund is established.
- (2) Accounts for the residual risks fund must be kept as part of the departmental accounts of the department.
- (3) Amounts received for the residual risks fund—
  - (a) must be deposited in a departmental financial institution account of the department; and

- (b) may be deposited in an account used for depositing other amounts of the department.
- (4) Amounts received for the residual risks fund are—
  - (a) residual risk payment amounts; or
  - (b) amounts earned as interest on the residual risks fund or as a return from investment of monies in the residual risks fund.
- (5) An amount mentioned in subsection (4) is a controlled receipt for the *Financial Accountability Act 2009*.
- (6) An amount is payable from the residual risks fund—
  - (a) for payment of costs and expenses related to the administration of the fund; or
  - (b) under part 3A.

**108 Amendment, relocation and renumbering of s 71  
(Scheme manager to keep Minister informed)**

- (1) Section 71(1)(a), after ‘scheme’—  
*insert—*  
and the residual risks fund
- (2) Section 71(1)(c), after ‘scheme fund’—  
*insert—*  
or the residual risks fund
- (3) Section 71—  
*relocate and renumber* as section 83A.

**109 Amendment, relocation and renumbering of s 72  
(Scheme annual report)**

- (1) Section 72, heading, ‘Scheme annual’—



[s 110]

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*omit, insert—*

**Annual**

- (2) Section 72(1), ‘and the scheme’—

*omit, insert—*

, the scheme and the residual risks fund

- (3) Section 72(2)(a), after ‘section 73’—

*insert—*

or 76E

- (4) Section 72(2)(b), after ‘scheme’—

*insert—*

or the residual risks fund

- (5) Section 72—

*relocate and renumber* as section 83B.

**110 Amendment of s 73 (Investigation of actuarial sustainability of scheme)**

- (1) Section 73(3)(a), after ‘Act’—

*insert—*

mentioned in section 3(a) to (d)

- (2) Section 73(6), definition *prescribed period*, paragraph (b), ‘immediately preceding report’—

*omit, insert—*

report for the immediately preceding investigation

**111 Relocation and renumbering of s 74 (Application for judicial review of particular decisions)**

Section 74—

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*relocate* to part 3B as inserted by this Act and *renumber* as section 76F.

**112 Amendment, relocation and renumbering of s 75  
(Decisions of scheme manager otherwise final)**

(1) Section 75(1), ‘section 74’—

*omit, insert*—

section 76F

(2) Section 75—

*relocate* to part 3B as inserted by this Act and *renumber* as section 76G.

**113 Amendment, relocation and renumbering of s 76 (No stay  
of decisions)**

(1) Section 76, ‘section 74’—

*omit, insert*—

section 76F

(2) Section 76—

*relocate* to part 3B as inserted by this Act and *renumber* as section 76H.

**114 Insertion of new pt 3A and pt 3B, hdg**

After part 3—

*insert*—

**Part 3A Administration of  
residual risks fund**

**76A Application of part**

This part applies if a chief executive (resources)  
(the *requesting entity*) incurs, or might

[s 114]

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reasonably incur, costs and expenses to carry out residual risk activities for the State.

### **76B Requesting entity may ask for payment from residual risks fund**

- (1) The requesting entity may ask the scheme manager for payment of the costs and expenses from the residual risks fund.
- (2) The request must—
  - (a) be in writing; and
  - (b) state the details of the costs and expenses; and
  - (c) include the other information prescribed by regulation.

### **76C Decision of scheme manager**

- (1) The scheme manager must decide to authorise or not to authorise payment of the costs and expenses from the residual risks fund.
- (2) The scheme manager must decide to authorise payment of an amount for the costs and expenses unless the payment would adversely affect the financial viability of the residual risks fund.
- (3) To ensure the authorisation of a payment does not adversely affect the financial viability of the residual risks fund, the scheme manager may decide to—
  - (a) authorise payment of an amount for only a part of the costs and expense; or
  - (b) authorise payment of an amount for all or a part of the costs and expenses in instalments.
- (4) If the scheme manager decides to authorise

payment of an amount for all or part of the costs and expenses, the scheme manager must give the amount decided to the requesting entity.

- (5) In making a decision under this section, the scheme manager must have regard to any guidelines made under section 76D.

### **76D Guidelines**

- (1) The scheme manager may make guidelines about the administration of the residual risks fund.
- (2) The guidelines may be amended or replaced by later guidelines made under this section.
- (3) The guidelines are a statutory instrument under the *Statutory Instruments Act 1992*.

### **76E Investigation of actuarial sustainability of residual risks fund**

- (1) The scheme manager must, within the prescribed period, investigate the actuarial sustainability of the residual risks fund.
- (2) For subsection (1), the scheme manager may ask an appropriately qualified actuary to give the scheme manager a report about the actuarial sustainability of the residual risks fund.
- (3) If the scheme manager decides to ask an appropriately qualified actuary to give the scheme manager a report under subsection (2)—
  - (a) the scheme manager may ask the chief executive (environment) or a chief executive (resources) to provide information that may be relevant to the actuary's report; and
  - (b) the chief executive (environment) or the chief executive (resources) must provide the information requested.

[s 114]

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- (4) The actuary's report must include the actuary's opinion about—
  - (a) whether the amount of the residual risks fund is adequate to meet the State's costs and expenses to carry out residual risk activities; and
  - (b) whether any changes need to be made in relation to deciding residual risk payment amounts to ensure the amount of the residual risks fund is adequate to meet the State's costs and expenses to carry out residual risk activities.
- (5) After the scheme manager completes the investigation, the scheme manager must give the Minister—
  - (a) the actuary's report; and
  - (b) the scheme manager's recommendations about—
    - (i) the actuary's opinion under subsection (4)(b); and
    - (ii) any other matter relating to the administration of the residual risks fund.
- (6) This section does not limit the scheme manager's ability to make other inquiries about the administration of the residual risks fund.
- (7) In this section—

***prescribed period*** means—

  - (a) for the first investigation—5 years after the first residual risk payment amount is paid into the residual risks fund; or
  - (b) for each investigation after the first investigation—3 years after the date of the

---

report for the immediately preceding investigation.

## **Part 3B                      Effect of decisions of scheme manager**

### **115     Amendment of s 79 (Definitions for part)**

- (1) Section 79, definition *confidential information*, paragraph (a)(ii), after ‘part 3’—

*insert—*

or 3A

- (2) Section 79, definition *confidential information*, paragraph (a)(iv), after ‘section 73’—

*insert—*

or 76E

- (3) Section 79, definition *confidential information*, paragraph (a)(v), ‘section 21(1)(d)’—

*omit, insert—*

section 21(1)(e)

### **116     Amendment of s 80 (Duty of confidentiality)**

Section 80(1)(a)(v), after ‘section 73’—

*insert—*

or 76E

### **117     Amendment of sch 1 (Dictionary)**

- (1) Schedule 1, definitions *chief executive (resources)* and *scheme manager guidelines*—

*omit.*

[s 117]

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(2) Schedule 1—

*insert—*

***chief executive (common provisions)*** means the chief executive of the department in which the *Mineral and Energy Resources (Common Provisions) Act 2014* is administered.

***chief executive (resources)*** means—

- (a) the chief executive (mineral resources); or
- (b) the chief executive (petroleum); or
- (c) the chief executive of the department in which the *Geothermal Energy Act 2010* is administered; or
- (d) the chief executive of the department in which the *Greenhouse Gas Storage Act 2009* is administered.

***departmental financial institution account***, of the department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

***residual risk activities*** means remedial action or ongoing management activities carried out in relation to land because of residual risks of the land.

***residual risk payment amount*** means an amount paid by the holder of an environmental authority for a resource activity under the *Environmental Protection Act 1994* for residual risks of land within the area of the environmental authority.

***residual risks***, of land, see the *Environmental Protection Act 1994*, schedule 4.

***residual risks fund*** means the Residual Risks Fund established under section 25A.

***scheme guidelines*** means the guidelines made by the scheme manager under section 70 and in

effect.

- (3) Schedule 1, definition *requesting entity*—  
*insert*—

(c) for part 3A—see section 76A.

## **Part 4 Other amendments**

### **Division 1 Amendment of Acquisition of Land Act 1967**

#### **117A Act amended**

This division amends the *Acquisition of Land Act 1967*.

#### **117B Insertion of new pt 6, div 5**

Part 6—

*insert*—

### **Division 5 Validation provisions for Environmental Protection and Other Legislation Amendment Act 2020**

#### **52 Validation provision relating to purposes for which land may be taken**

Schedule 1, part 2, as amended by the *Environmental Protection and Other Legislation Amendment Act 2020*, applies, and is taken to have applied, from the commencement of the *Building and Other Legislation Amendment Act 2009*, part 12.



[s 117B]

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*Note—*

The *Building and Other Legislation Amendment Act 2009*, part 12 commenced on 19 November 2009.

### **53 Validation of taking of particular land**

- (1) This section applies if, before the commencement, land was taken under this Act for a purpose that included the conservation of koalas on land in a ‘Regional Landscape and Rural Protection Area’.
- (2) The taking of the land is, and is taken to have always been, as valid as it would have been if the land had been taken under this Act for a purpose that included the conservation of koalas on land in a ‘Regional Landscape and Rural Production Area’.
- (3) Anything done, or omitted to be done, in relation to the taking of the land is, and is taken to have always been, as valid as it would have been if the land had been taken under this Act for a purpose that included the conservation of koalas on land in a ‘Regional Landscape and Rural Production Area’.

### **54 Validation of particular notices of intention to resume and resumption agreements**

- (1) This section applies if, before the commencement—
  - (a) a constructing authority—
    - (i) served on a person a notice of intention to resume for land that stated a purpose for which the land was to be taken included the conservation of koalas on land in a ‘Regional Landscape and Rural Protection Area’; or

- (ii) entered into a resumption agreement for land that stated a purpose for which the land was to be taken included the conservation of koalas on land in a ‘Regional Landscape and Rural Protection Area’; and
  - (b) a gazette resumption notice for the land was not published.
- (2) After the commencement, the constructing authority may continue to take the land as if the notice of intention to resume or resumption agreement stated, and had always stated, a purpose for which the land was to be taken included the conservation of koalas on land in a ‘Regional Landscape and Rural Production Area’.
- (3) Anything done, or omitted to be done, in relation to the notice of intention to resume or resumption agreement is, and is taken to have always been, as valid as it would have been if the notice of intention to resume or resumption agreement had stated a purpose for which the land was to be taken included the conservation of koalas on land in a ‘Regional Landscape and Rural Production Area’.

### **117C Amendment of sch 1 (Purposes for taking land)**

Schedule 1, part 2, fourth dot point, ‘Regional Landscape and Rural Protection Area’—

*omit, insert—*

Regional Landscape and Rural Production Area

[s 118]

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## **Division 2                      Minor and consequential amendments**

### **118      Legislation amended**

Schedule 1 amends the legislation it mentions.

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## Schedule 1      Legislation amended

section 118

### Environmental Protection Act 1994

**1      Section 77(5), definition *load*, ‘volume’—**

*omit, insert—*

mass

**2      Section 126B(a), ‘an application mentioned in section 125(1)(n)’—**

*omit, insert—*

a site-specific application for a mining activity relating to a mining lease

**3      Section 167A(1)(a)—**

*omit, insert—*

(a) there is a proposed PRC plan that includes a proposed PRCP schedule for a site-specific application and a report about a public interest evaluation has been requested for the proposed PRCP schedule under section 136A; and

**4      Section 167B(1), ‘accompanied by’—**

*omit, insert—*

for which there is

**5 Sections 168(1)(a) and 194(2)(a)(i) and (b)(i), from ‘if’ to ‘plan’—**

*omit, insert—*

if there is a proposed PRC plan for the application

**6 Section 172(3), from ‘If’ to ‘PRC plan’—**

*omit, insert—*

If there is a proposed PRC plan for the application

**7 Sections 181(2)(b)(ii), 190(2), 194A(2) and (3), 194B(1)(a)(iii), 205(1)(a), 316Q(1) and 520(1)(b), ‘accompanying’—**

*omit, insert—*

for

**8 Section 181(2)(c), ‘including an accompanying proposed PRC plan’—**

*omit, insert—*

or a proposed PRC plan for the application

**9 Chapter 5, part 10, division 3, heading, ‘post-mining’—**

*omit, insert—*

**post-surrender**

**10 Section 272(a), ‘relevant area’—**

*omit, insert—*

land the subject of the application

**11 Section 318K(b), ‘applicant’s’—**

*omit, insert—*

operator's

**12 Sections 318S(1) and (3) and 318T(a) and (b), after 'person'—**

*insert—*

or entity

**13 Section 318U(1)(b), from 'someone'—**

*omit, insert—*

another person or entity (the *second entity*).

**14 Section 318U(3)(a), 'person's'—**

*omit, insert—*

entity's

**15 Sections 318ZA(1) and 318ZB, 'rehabilitated'—**

*omit.*

**16 Chapter 5A, part 6, division 1, subdivision 2, heading—**

*omit, insert—*

**Division 2**

**Applying for progressive certification**

**17 Chapter 5A, part 6, division 1, subdivision 3, heading—**

*omit, insert—*

**Division 3**

**Progressive certification report and further information**

**18 Chapter 5A, part 6, division 1, subdivision 4, heading—**  
*omit.*

**19 Chapter 5A, part 6, division 1, subdivision 5, heading—**  
*omit, insert—*

**Division 4 Deciding progressive  
certification application**

**20 Section 318ZJA(1)(b), ‘rehabilitation’—**  
*omit.*

**21 Section 320DB(1), ‘section 320(3)(a)’—**  
*omit, insert—*  
section 320A(3)(c)

**22 Section 320DB(2), ‘section 320(3)(b)’—**  
*omit, insert—*  
section 320A(3)(a) or (b)

**23 Sections 363AG(1)(b)(ii) and 363AI(2)(b)(i), ‘section 522 or  
535’—**  
*omit, insert—*  
section 539A or 539B

**24 Sections 363K(1)(b) and 363N(1)(b)(i), ‘section 535’—**  
*omit, insert—*  
section 539B

- 25 Section 429(1)(d), note, from ‘the’—**  
*omit, insert—*  
the *Environmental Protection Regulation 2019*,  
section 93.
- 26 Section 549(1)(b), from ‘standard’—**  
*omit, insert—*  
ERA standards under chapter 5A, part 1; or
- 27 Schedule 4, definition *management milestone*, ‘for chapter 5’—**  
*omit, insert—*  
for a non-use management area
- 28 Schedule 4, definition *regulatory requirement*, paragraph (a)(i)(A), ‘accompanying proposed PRCP schedule’—**  
*omit, insert—*  
proposed PRCP schedule for the application

## **Environmental Protection Regulation 2019**

- 1 Section 4, ‘section 37(1)(e)’—**  
*omit, insert—*  
section 37(1)(f)
- 2 Section 35(4), after ‘Reef’—**  
*insert—*  
or Great Barrier Reef catchment waters



Schedule 1

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**3 Section 41AA(6)—**

*omit.*

**4 Schedule 15, part 2, item 9, ‘s 236(b)’—**

*omit, insert—*

s 236(1)(b)

**5 Schedule 15, part 2, item 10, ‘s 246(e)’—**

*omit, insert—*

s 246(g)

## **Environmental Protection (Water and Wetland Biodiversity) Policy 2019**

**1 Section 11(6)—**

*omit.*

## **Mineral and Energy Resources (Financial Provisioning) Act 2018**

**1 Section 24(10)—**

*omit.*

**2 Sections 27(2)(a)(iii) and (3)(a)(ii), 32(3)(a)(iii) and (4)(a)(ii) and 38(3)(a)(iii) and (4)(a)(ii), ‘manager’—**

*omit.*

**3 Sections 63(d) and 82(1)(b), ‘(resources)’—**

*omit, insert—*

(common provisions)

**4 Part 3, division 4, heading—**

*omit, insert—*

**Division 4                      Guidelines and  
investigations**

**5 Part 3, division 5, heading—**

*omit.*

## **Water Act 2000**

**1 Section 392(1)(b), after ‘underground’—**

*insert—*

water

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