

2012

A Bill

for

An Act to amend the Aboriginal Cultural Heritage Act 2003, the Coastal Protection and Management Act 1995, the Environmental Protection Act 1994, the ~~Environmental Protection and Other Legislation Amendment Act 2011~~, the Geothermal Energy Act 2010, the Greenhouse Gas Storage Act 2009, the Mineral Resources Act 1989, the North Stradbroke Island Protection and Sustainability Act 2011, the Petroleum Act 1923, the Petroleum and Gas (Production and Safety) Act 2004, the State Development and Public Works Organisation Act 1971, the Sustainable Planning Act 2009, the Torres Strait Islander Cultural Heritage Act 2003, the Transport Infrastructure Act 1994, the Waste Reduction and Recycling Act 2011, the Water Act 2000 and the Water Supply (Safety and Reliability) Act 2008 for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

2 Commencement

This Act, other than sections 41 and 42, commences on a day to be fixed by proclamation.

Part 2 Amendment of Environmental Protection Act 1994

3 Act amended

This part amends the *Environmental Protection Act 1994*.

Note—

See also the amendments in the schedule.

4 Amendment of s 18 (Meaning of *environmentally relevant activity*)

Section 18(b) to (d)—

omit, insert—

‘(b) a resource activity as defined under section 107; or

-
- (c) another activity prescribed under section 19 as an environmentally relevant activity.’.

5 Amendment of s 51 (Public notification)

- (1) Section 51(2)—

insert—

‘(c) make a copy of the submitted EIS available on a website.’.

- (2) Section 51(4)—

renumber as section 51(5).

- (3) Section 51—

insert—

- ‘(4) The proponent must keep the information mentioned in subsection (2)(c) available on a website from the start of the submission period until—

- (a) if the proponent is given notice by the chief executive under section 56A(4) that the submitted EIS may not proceed and the proponent does not apply to the Minister to review the decision—the day the notice is given; or
- (b) if the proponent is given notice by the chief executive under section 50(6), as applied by section 56B(2), that the submitted EIS may not proceed—the day the notice is given; or
- (c) if paragraphs (a) and (b) do not apply—the day that is 1 year after the chief executive gives the proponent an EIS assessment report under section 57(2).’.

6 Omission of ch 4 (Development approvals and registration (other than for mining or chapter 5A activities))

Chapter 4—

omit.

7 Omission of chs 5–6

Chapters 5 to 6—

omit.

8 Insertion of new chs 5 and 5A

After section 105—

insert—

**‘Chapter 5 Environmental authorities
for environmentally relevant
activities**

Note—

The *Strategic Cropping Land Act 2011*, chapter 3, part 4, division 2 imposes restrictions on the issuing of environmental authorities for SCL and potential SCL under that Act.

‘Part 1 Preliminary

‘Division 1 Key definitions for chapter 5

‘106 What is a *prescribed ERA*

‘A *prescribed ERA* is an environmentally relevant activity prescribed under section 19.

‘107 What is a *resource activity*

‘A *resource activity* is an activity that involves—

- (a) a geothermal activity; or
- (b) a GHG storage activity; or
- (c) a mining activity; or
- (d) a petroleum activity.

‘108 What is a *geothermal activity*

‘A *geothermal activity* is an activity that, under the Geothermal Act, is an authorised activity for a geothermal tenure.

‘109 What is a *GHG storage activity*

‘A *GHG storage activity* is an activity that, under the GHG storage Act, is an authorised activity for a GHG authority under that Act.

‘110 What is a *mining activity*

‘A *mining activity* is an activity that, under the Mineral Resources Act, is an authorised activity for a mining tenure.

‘111 What is a *petroleum activity*

‘A *petroleum activity* is—

- (a) an activity that, under the *Petroleum Act 1923*, is an authorised activity for a 1923 Act petroleum tenure under that Act; or
- (b) an activity that, under the P&G Act, is an authorised activity for a petroleum authority under that Act; or
- (c) exploring for, exploiting or conveying petroleum resources under a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*.

‘112 Other key definitions for ch 5

‘In this chapter—

~~eligibility criteria, for eligible ERA means~~ an environmentally relevant activity, ~~means~~—

[s 8]

- (a) ~~if the activity is a prescribed ERA that complies with the eligibility criteria made by the chief executive under section 318 in effect for the activity and prescribed under a regulation activity; or~~ and
- (b) ~~if the activity that is not carried out as part of a resource activity—significant project.~~

eligibility criteria, for an environmentally relevant activity, means—

- (a) if the activity is a prescribed ERA—the eligibility criteria made by the chief executive under section 318 for the activity and prescribed under a regulation; or
- (b) if the activity is a resource activity—
 - (i) the eligibility criteria prescribed under a regulation for the activity; or
 - (ii) the eligibility criteria made by the chief executive under section 318 for the activity and prescribed under a regulation.

ERA project means a prescribed ERA project or a resource project.

ineligible ERA means an environmentally relevant activity—

- (a) that does not comply with the eligibility criteria in effect for the activity; or
- (b) for which eligibility criteria are not in effect; or
- (c) that is carried out as part of a significant project.

prescribed ERA project means all prescribed ERAs carried out, or proposed to be carried out, as a single integrated operation.

resource project means resource activities carried out, or proposed to be carried out, under 1 or more resource tenures, in any combination, as a single integrated operation.

‘Division 2 Single integrated operations

‘113 Single integrated operations

‘Environmentally relevant activities are carried out as a single integrated operation if—

- (a) the activities are carried out under the day-to-day management of a single responsible individual, for example, a site or operations manager; and
- (b) the activities are operationally interrelated; and
- (c) the activities are, or will be, carried out at 1 or more places; and
- (d) the places where the activities are carried out are separated by distances short enough to make feasible the integrated day-to-day management of the activities.

‘Division 3 Stages of assessment process

‘114 Stages of assessment process

‘(1) The assessment process for applications for environmental authorities involve the following possible stages—

- application stage
- information stage
- notification stage
- decision stage.

‘(2) Not all stages, or all parts of a stage, apply to all applications.

‘Division 4 Relationship with the Planning Act

‘115 Development application taken to be application for environmental authority in particular circumstances

‘(1) This section applies if—

- (a) a development application is made for a development permit for a material change of use of premises under the Planning Act; and
 - (b) the development application relates to a prescribed ERA; and
 - (c) the administering authority is the assessment manager or a concurrence agency for the development application.
- ‘(2) The development application is taken to also be an application for an environmental authority for the prescribed ERA.
- ‘(3) However, parts 2, other than division 2, to 4 do not apply to the application for the environmental authority.
- ‘(4) A properly made submission under the Planning Act about the development application is, to the extent it relates to the prescribed ERA, taken to be a properly made submission about the application for the environmental authority.
- ‘(5) If the development application lapses or is changed or withdrawn under the Planning Act, the application for an environmental authority for the prescribed ERA is also taken to have lapsed or been changed or withdrawn.

‘Part 2 Application stage

‘Division 1 Preliminary

‘116 Who may apply for an environmental authority

- ‘(1) A person may apply for an environmental authority to carry out 1 or more environmentally relevant activities.

Note—

See also section 426 (Environmental authority required for particular environmentally relevant activities).

‘(2) Subsection (1) is subject to sections 117 to 120.

‘117 Restriction for applications for resource activities

‘A person may apply for an environmental authority for a resource activity only if the person is the applicant for a relevant tenure for the resource activity.

‘118 Single application required for ERA projects

- ‘(1) This section applies if a person proposes to carry out environmentally relevant activities as an ERA project.
- ‘(2) The person may only make a single application for a single environmental authority for all relevant activities that form the project.

‘119 Single environmental authority required for ERA projects

- ‘(1) This section applies if an environmental authority has been issued for an ERA project.
- ‘(2) The holder of the authority can not apply for a separate environmental authority for additional activities proposed to be carried out as part of the project.
- ‘(3) Subsection (2) applies whether or not the additional activity is a resource activity that is proposed to be carried out under another relevant tenure as part of the project.
- ‘(4) This section does not prevent the holder from applying to amend or ~~replace~~ transfer the environmental authority, or amalgamate the authority with another authority of the holder.

‘120 Application for environmental authority can not be made in particular circumstances

- ‘(1) An application for an environmental authority for a prescribed ERA can not be made if, under the Planning Act—

[s 8]

- (a) a development permit for a material change of use of premises relating to the activity is necessary under the Planning Act for the carrying out of the activity; and
- (b) a development application for the development permit has not been made under the Planning Act.

(2) ~~An~~ Also, an application for an environmental authority ~~also~~ can not be made if—

- (a) it is for a prescribed ERA that is an extractive activity; and
- (b) it relates to the North Stradbroke Island Region; and
- (c) it involves dredging or extracting more than 10000 tonnes of material a year.

(3) Also, an application for an environmental authority for a prescribed ERA can not be made if—

- (a) the activity is to be carried out on a parcel of land within a State development area; and
- (b) under the State Development Act, the approved development scheme for the area does not state a particular use for the parcel of land; and
- (c) either of the following apply—
 - (i) the applicant has not applied for an approval for the use under the State Development Act, section 84(4)(b);
 - (ii) the applicant's approval for the use, under the State Development Act, section 84(4)(b), has lapsed under section 84A of that Act.

~~(34)~~ In this section—

extractive activity means an activity prescribed under a regulation as an extractive activity.

North Stradbroke Island Region see the *North Stradbroke Island Protection and Sustainability Act 2011*, section 5.

State development area see the *State Development Act, schedule 2.*

‘Division 2 Types of applications

‘121 Types of applications

‘The types of applications for an environmental authority are—

- (a) standard applications; and
- (b) variation applications; and
- (c) site-specific applications.

‘122 What is a *standard application*

‘An application for an environmental authority is a *standard application* if—

- ~~(a) the application is for—~~
 - ~~(i) an activity for which eligibility criteria are in effect and the activity complies with the eligibility criteria; or~~
 - ~~(ii) an ERA project and—~~
 - ~~(A) eligibility criteria are in effect for all relevant activities that form part of the project; and~~
 - ~~(B) the activities comply with the eligibility criteria; and~~
- ~~(ba) the application is for an environmental authority that is to be subject to the standard conditions for the authority or the environmentally relevant activity or for the authority; and~~
- ~~(c) the application does not relate to a significant project.~~
- (b) all proposed environmentally relevant activities for the environmental authority are eligible ERAs.

‘123 What is a *variation application*

‘An application for an environmental authority is a *variation application* if—

- ~~(a) the application is for—~~
 - ~~(i) an activity for which eligibility criteria are in effect and the activity complies with the eligibility criteria; or~~
 - ~~(ii) an ERA project and—~~
 - ~~(A) eligibility criteria are in effect for all relevant activities that form part of the project; and~~
 - ~~(B) the activities comply with the eligibility criteria; and~~
- (a) the application seeks to change the standard conditions for the environmental authority or the environmentally relevant activity for the authority; and
- (b) ~~the application seeks to change the standard conditions~~ all proposed environmentally relevant activities for the activity or authority; and environmental authority are eligible ERAs.
- ~~(c) the application does not relate to a significant project.~~

‘124 What is a *site-specific application*

‘An application for an environmental authority is a *site-specific application* if ~~it is not a standard application or a variation application~~ any of the proposed environmentally relevant activities for the authority are ineligible ERAs.

‘Division 3 Applying for environmental authorities

‘125 Requirements for applications generally

- ‘(1) An application for an environmental authority must—

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- (a) be made to the administering authority; and
 - (b) be made in the approved form; and
 - (c) describe all environmentally relevant activities for the application; and
 - (d) describe the land on which each activity will be carried out; and
 - (e) be accompanied by the fee prescribed under a regulation; and
 - (f) if 2 or more persons (*joint applicants*) jointly make the application—nominate 1 joint applicant as the principal applicant; and
 - (g) state whether the application is—
 - (i) a standard application; or
 - (ii) a variation application; or
 - (iii) a site-specific application; and
 - (h) state whether the applicant is a registered suitable operator; and
 - (i) if a development permit under the Planning Act, or an approval of the Coordinator-General under section 84(4)(b) of the State Development Act, is required under either of those Acts for carrying out the environmentally relevant activities for the application—describe the permit or approval; and
 - (i) ~~describe any development permits required under the Planning Act for the carrying out of each activity; and~~
 - (j) if the application is a standard or variation application—include a ~~statutory~~ declaration that each relevant activity complies with the eligibility criteria; and
 - (k) if the application is a variation application—state the standard conditions for the activity or authority the applicant seeks to change; and

- (l) if the application is a variation or site-specific application—
 - (i) include an assessment of the likely impact of each relevant activity on the environmental values, including—
 - (A) a description of the environmental values likely to be affected by each relevant activity; and
 - (B) details of any emissions or releases likely to be generated by each relevant activity; and
 - (C) a description of the risk and likely magnitude of impacts on the environmental values; and
 - (D) details of the management practices proposed to be implemented to prevent or minimise adverse impacts; and
 - (E) details of how the land the subject of the application will be rehabilitated after each relevant activity ceases; and
 - (ii) include a description of the proposed measures for minimising and managing waste generated by each relevant activity; and
 - (iii) include details of any site management plan that relates to the land the subject of the application; and
 - (m) if the application is for a prescribed ERA—state whether the applicant wants any environmental authority granted for the application to take effect on a day nominated by the applicant; and
 - (n) include any other document relating to the application prescribed under a regulation.
- (2) Despite subsection (1)(l), if the application is a variation application, it need only include the matters mentioned in that subsection to the extent it seeks to change the standard conditions for the activity or authority.

- ‘(3) Subsection (1)(l) does not apply for an application if—
- (a) the EIS process for an EIS for each relevant activity the subject of the application has been completed; and

Note—

For when the EIS process is complete, see section 60.

- (b) an assessment of the environmental risk of each activity would be the same as the assessment in the EIS.

‘126 Requirements for site-specific applications—CSG activities

- ‘(1) A site-specific application for a CSG activity must also state the following—
- (a) the quantity of CSG water the applicant reasonably expects will be generated in connection with carrying out each relevant CSG activity;
 - (b) the flow rate at which the applicant reasonably expects the water will be generated;
 - (c) the quality of the water, including changes in the water quality the applicant reasonably expects will happen while each relevant CSG activity is carried out;
 - (d) the proposed management of the water including, for example, the use, treatment, storage or disposal of the water;
 - (e) the measurable criteria (the *management criteria*) against which the applicant will monitor and assess the effectiveness of the management of the water, including, for example, criteria for each of the following—
 - (i) the quantity and quality of the water used, treated, stored or disposed of;
 - (ii) protection of the environmental values affected by each relevant CSG activity;
 - (iii) the disposal of waste, including, for example, salt, generated from the management of the water;

- (f) the action proposed to be taken if any of the management criteria are not complied with, to ensure the criteria will be able to be complied with in the future.
- ‘(2) The proposed management of the water can not provide for using a CSG evaporation dam in connection with carrying out a relevant CSG activity unless—
 - (a) the application includes an evaluation of—
 - (i) best practice environmental management for managing the CSG water; and
 - (ii) alternative ways for managing the water; and
 - (b) the evaluation shows there is no feasible alternative to a CSG evaporation dam for managing the water.

‘127 When application is a *properly made application*

‘An application for an environmental authority under section 116(1) is a *properly made application* if it complies with this division.

‘Division 4 Notices about not properly made applications

‘128 Notice about application that is not a properly made application

- ‘(1) This section applies if an application is not a properly made application.
- ‘(2) The administering authority must, within 10 business days after receiving the application, give the applicant a notice stating the following—
 - (a) it is not a properly made application;
 - (b) the reasons the administering authority is satisfied it is not a properly made application;

- (c) the action the administering authority is satisfied the applicant must take for the application to be a properly made 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 application will lapse under section 129.

‘129 When application lapses

- ‘(1) This section applies if the applicant is given a notice under section 128(2).
- ‘(2) The 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 128(2)(c); and
 - (b) give the administering authority written notice that the action has been taken.

‘Division 5 Joint applicants

‘130 Nomination of principal applicant

- ‘(1) This section applies if joint applicants jointly apply for 1 or more environmental authorities.
- ‘(2) The person nominated in the application as the principal applicant for the application may, for all applicants for the application, give to the administering authority a notice or other document relating to the application.
- ‘(3) The administering authority may—

- (a) give a notice or other document relating to the application to all the applicants, by giving it to the principal applicant nominated in the application; or
- (b) make a requirement under this chapter relating to the application of all the applicants, by making it of the principal applicant nominated in the application.

‘Division 6 Changing applications

‘Subdivision 1 Preliminary

‘131 Meaning of *minor change*

‘A *minor change*, for an application, is any of the following changes to the application—

- (a) a change that merely corrects a mistake about the name or address of the applicant;
- (b) a change of applicant;
- (c) a change that merely corrects a spelling or grammatical error;
- (d) a change that the administering authority is satisfied would not adversely affect the ability of the authority to assess the changed application, unless the change would have the effect that the type of application is changed.

‘Subdivision 2 Procedure for changing applications

‘132 Changing application

‘(1) Before an application is decided, the applicant may change the application by giving the administering authority—

- (a) written notice of the change; and

- (b) the fee prescribed under a regulation.
- ‘(2) An applicant can not change an application if the change would, if the application were remade including the change, result in the application not being a properly made 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 application if it were remade.
- ‘(4) If the change to the application is, or includes, a change of applicant, the notice of the change—
 - (a) may be given to the administering authority by the person proposing to become the applicant; and
 - (b) must be accompanied by the written consent of the person who is the applicant immediately before the change.

‘Subdivision 3 Changed applications—effect on assessment process

‘133 Effect on assessment process—minor changes and agreed changes

- ‘(1) The assessment process does not stop for a changed application if—
 - (a) the change is a minor change of the application; or
 - (b) the administering authority gives its written agreement to the change.
- ‘(2) For the changed application, the notification stage does not again apply, and is not required to restart, if—
 - (a) the notification stage applied to the original application; and
 - (b) the change was made during the notification stage or after the notification stage ended.

‘134 Effect on assessment process—other changes

- ‘(1) Subsection (2) applies to a changed application if—
 - (a) the change is not a minor change; and
 - (b) the administering authority has not given its written agreement to the change.
- ‘(2) The assessment process stops on the day the notice of the change is received by the administering authority and starts again from the end of the application stage.
- ‘(3) Subsection (4) applies to a changed application if—
 - (a) the assessment process has stopped under subsection (2) for the application; and
 - (b) the notification stage applied to the original application; and
 - (c) the change was made during the notification stage or after the notification stage ended.
- ‘(4) The notification stage must be repeated unless the administering authority is satisfied the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

‘Division 7 Withdrawing applications

‘135 Withdrawing an application

‘At any time before an environmental authority is issued, the applicant may withdraw the application by giving written notice of the withdrawal to the administering authority.

‘Division 8 End of application stage

‘136 When does application stage end

‘The application stage for an application ends—

- (a) if the applicant is given a notice under section 128(2)—the day the administering authority receives the notice mentioned in section 128(2)(d); or
- (b) otherwise—10 business days after the administering authority receives the application.

‘Part 3 Information stage

‘Division 1 Preliminary

‘137 Purpose of information stage

‘The information stage for an application gives the administering authority the opportunity to ask the applicant for further information needed to assess the application.

‘138 When information stage applies

‘Subject to section 139, the information stage applies to—

- (a) variation applications; and
- (b) site-specific applications.

‘139 Information stage does not apply if EIS process complete

‘(1) This section applies if—

- (a) the EIS process for an EIS for each relevant activity the subject of the application has been completed; and

- (b) the environmental risks of the activity and the way the activity will be carried out have not changed since the EIS was completed.

- ‘(2) The information stage does not apply to the application.

‘Division 2 Information requests

‘140 Information request to applicant

- ‘(1) The administering authority may ask the applicant, by written request (an *information request*), to give further information needed to assess the application.
- ‘(2) An information request must state that the application will lapse unless the applicant gives the administering authority a response under section 146.

‘141 Content of information request

- ‘(1) The administering authority must state in an information request the period (the *information response period*) within which the applicant must give a response under section 146.
- ‘(2) The information response period must be—
 - (a) if an EIS is required for the application under section 142(2) or 143(2)—a period of at least 2 years after the final terms of reference are given to the proponent under section 46(1); or
 - (b) otherwise—a period of at least 6 months after the giving of the information request.

‘142 EIS must be required for particular applications

- ‘(1) This section applies for a site-specific application if—
 - (a) the application is for a mining activity, other than a mining activity carried out for specified works—

- (i) below the surface of a wild river high preservation area or a wild river special floodplain management area; or
 - (ii) under a nominated waterway in a wild river preservation area; and
 - (b) the application does not relate to a significant project; and
 - (c) an EIS relating to the activity has not been submitted under chapter 3, part 1.
- ‘(2) The administering authority must include in an information request a requirement that the applicant provide an EIS for the application.
- ‘(3) A requirement under subsection (2) ceases to have effect if a relevant activity or tenure for the application is, or is included in, a significant project.

‘143 EIS may be required

- ‘(1) This section applies for a site-specific application for a resource activity if—
- (a) section 142 does not apply to the application; and
 - (b) the application does not relate to a significant project; and
 - (c) an EIS relating to the activity has not been submitted under chapter 3, part 1.
- ‘(2) Without limiting section 140(1), the administering authority may include in an information request a requirement that the applicant provide an EIS for the application.
- ‘(3) In deciding whether an EIS is required for an application, the administering authority must consider the standard criteria.
- ‘(4) A requirement under subsection (2) ceases to have effect if a relevant activity or tenure for the application is, or is included in, a significant project.

‘144 When information request must be made

‘An information request must be made—

- (a) for a site-specific application—within 20 business days after the day the application stage ends for the application (the *information request period*); or
- (b) for a variation application—within 10 business days after the day the application stage ends for the application (also the *information request period*).

‘145 Extending information request period

- ‘(1) The administering authority may, by written notice given to the applicant and without the applicant’s agreement, extend the information request period by not more than 10 business days.
- ‘(2) Only 1 notice may be given by the administering authority under subsection (1) and the notice must be given before the information request period ends.
- ‘(3) The information request period may be further extended if the applicant, at any time, gives written agreement to the extension.

‘Division 3 Responding to information request

‘146 Applicant responds to any information request

- ‘(1) If the applicant receives an information request from the administering authority, the applicant must respond by giving the authority—
 - (a) all of the information requested; or
 - (b) part of the information requested together with a written notice asking the authority to proceed with the assessment of the application; or

- (c) a written notice—
 - (i) stating that the applicant does not intend to supply any of the information requested; and
 - (ii) asking the authority to proceed with the assessment of the application.
- ‘(2) Despite subsection (1), if the information request requires the applicant to provide an EIS for the application under section 142(2) or 143(2), the EIS process under chapter 3 must be completed and the EIS provided.

‘147 Lapsing of applications if no response to information request

- ‘(1) An application lapses if the applicant does not comply with section 146 within—
 - (a) the information response period stated in the information request; or
 - (b) the further period agreed between the applicant and the administering authority.
- ‘(2) If the applicant asks the administering authority to agree to extend the information response period, the request must be made at least 10 business days before the last day of the information response period.
- ‘(3) The administering authority must, within 5 business days after receiving the request—
 - (a) decide whether to agree to the extension; and
 - (b) give an information notice of the decision.

‘Division 4 End of information stage

‘148 When does information stage end

‘The information stage ends when—

- (a) if an information request has been made—the applicant has finished responding to the request and the administering authority has received the response; or
- (b) if an information request has not been made—the information request period has ended.

‘Part 4 Notification stage

‘Division 1 Preliminary

‘149 When notification stage applies

‘Subject to section 150, the notification stage applies to an application if—

- (a) any part of the application is for a mining activity relating to a mining lease; or
- (b) the application is a site-specific application and any part of the application is for a geothermal activity, GHG storage activity or petroleum activity.

‘150 Notification stage does not apply if EIS process complete

‘(1) This section applies if—

- (a) the process under chapter 3 for an EIS for each relevant activity the subject of the application was completed before the application was made; and
- (b) the environmental risks of the activity have not changed since the EIS was completed; and
- (c) if the application proposes a change to the way the relevant activity is to be carried out—the administering authority is satisfied the change would not be likely to attract a submission objecting to the thing the subject of

the change, if the notification stage were to apply to the change.

- ‘(2) The notification stage does not apply to the application.
- ‘(3) However, a properly made submission about the EIS is taken to be a properly made submission about the application.

‘151 When notification stage can start

‘The applicant may start the notification stage as soon as the application stage ends for the application.

‘Division 2 Public notice

‘152 Public notice of application

- ‘(1) The applicant must give and publish a notice about the application (the *application notice*).
- ‘(2) The application notice must be given and published—
 - (a) simultaneously or together with, and in the same way as, any public notice for an application under resource legislation for a relevant tenure for the application; or
 - (b) if public notice is not required to be given for an application under resource legislation for a relevant tenure for the application—
 - (i) in a newspaper circulating generally in the area where the relevant resource activity is proposed to be carried out; and
 - (ii) before the day that is 10 business days after the end of the information stage for the application; or
 - (c) in another way prescribed under a regulation.
- ‘(3) The administering authority may decide an additional or substituted way to give or publish the application notice if it gives the applicant an information notice about the decision before the application notice is given.

‘(4) This section is subject to section 159.

‘153 Required content of application notice

- ‘(1) An application notice must be in the approved form and state the following—
- (a) a description of each relevant resource activity;
 - (b) the land on which each activity is to be carried out;
 - (c) for a standard or variation application—where copies of the standard conditions for the relevant activity or authority may be obtained;
 - (d) where the application documents may be inspected or accessed;
 - (e) where copies of, or extracts from, the application may be obtained;
 - (f) that any entity may make a submission to the administering authority about the application;
 - (g) the period (the *submission period*) during which submissions may be given;
 - (h) how to make a properly made submission;
 - (i) another matter prescribed under a regulation.
- ‘(2) This section is subject to section 159.

‘154 Submission period for application—mining activities

- | ‘The submission period for an application for a mining activity must end on—
- (a) if there is only 1 relevant mining tenure application—the last objection day under the Mineral Resources Act for the application; or
 - (b) if there is more than 1 relevant mining tenure application—the later of the last objection days under the Mineral Resources Act for the applications.

Note—

For the last objection day under the Mineral Resources Act, see section 252A (Issue of certificate of public notice) of that Act.

‘155 Submission period for application—other resource activities

‘The submission period for an application for a resource activity other than a mining activity can not end before the later of the following—

- (a) a day or time fixed by the administering authority before the notice is published;
- (b) 20 business days after the application notice is published under section 152.

‘156 Publication of application notice and documents on website

- ‘(1) This section applies for a site-specific application.
- ‘(2) The applicant must keep copies of the application notice and the application documents available on a website.
- ‘(3) The documents mentioned in subsection (2) must be kept available on a website from the start of the submission period until the application is decided, withdrawn or lapses.

‘157 Public access to application

- ‘(1) The administering authority must, for all of the access period—
 - (a) keep the application open for inspection by members of the public during office hours on business days at—
 - (i) the authority’s head office; or
 - (ii) the office of the authority located nearest to the land to which the application relates; or
 - (iii) other places the chief executive considers appropriate; and

[s 8]

- (b) permit a person to take extracts from the application or, on payment of the appropriate fee to the authority, give the person a copy of the application, or a part of the application; and
- (c) keep a copy of, or a link to, the application available on its website.

‘(2) In this section—

access period means the period that—

- (a) starts the day after the application stage for the application ends; and
- (b) ends on the earlier of the following—
 - (i) the day the application lapses or is withdrawn;
 - (ii) if the application is for a mining activity relating to a mining lease and the application is referred to the Land Court under section 185—the day a final decision about the application is made under section 194(2);
 - (iii) if the application is for a mining activity relating to a mining lease and the application is not referred to the Land Court—10 business days after the notice is given under section 181;
 - (iv) otherwise—the review date.

‘158 Declaration of compliance

‘(1) The applicant must give the administering authority a ~~statutory~~ declaration ~~declaring~~ about whether or not the applicant has complied with the following requirements (the *public notice requirements*)—

- (a) the notice requirements under sections 152 and 153;
- (b) if the application is a site-specific application—the requirement to make a copy of the application notice and the application documents available on a website

from the start of the submission period under section 156(2).

- ‘(2) The ~~statutory~~ declaration must be given within 5 business days after the submission period ends.
- ‘(3) A copy of the application notice must be attached to the declaration.
- ‘(4) The applicant is taken to have complied with the public notice requirements if—
 - (a) a declaration is given within the period mentioned in subsection (2); and
 - (b) the declaration states the applicant has complied with the requirements.

‘159 Substantial compliance may be accepted

- ‘(1) This section applies if the applicant—
 - (a) has not complied with the public notice requirements; or
 - (b) has given a ~~statutory~~ declaration under section 158(1), but not within the period mentioned in section 158(2).
- ‘(2) The administering authority must, within 10 business days after receiving the ~~statutory~~ declaration, decide whether to allow the application to proceed under this part as if the noncompliance had not happened.
- ‘(3) The authority may decide to allow the application to proceed only if it is satisfied there has been substantial compliance with the public notice requirements.
- ‘(4) If the decision is that the application may proceed, the authority must, within 10 business days after the decision is made, give the applicant written notice of the decision.
- ‘(5) If the authority decides not to allow the application to proceed—
 - (a) any steps purportedly taken to comply with the public notice requirements are of no effect; and

- (b) the authority must, within 10 business days after the decision is made—
 - (i) fix a substituted way to give or publish the application notice and give the applicant written notice of the substituted way; and
 - (ii) fix a new submission period for the application and give the applicant written notice of the period; and
 - (iii) give the applicant an information notice about the decision.
- ‘(6) The stated substituted way to give or publish the application notice applies instead of the requirements for giving or publishing the notice under section 152.
- ‘(7) If the administering authority states a substituted way to give or publish the application notice, section 158 applies to the applicant as if—
 - (a) a reference to section 152 were a reference to the notice given under subsection (5)(b)(i); and
 - (b) a reference to the submission period were a reference to the submission period fixed under subsection (5)(b)(ii).
- ‘(8) Despite subsection (5)(a), if the administering authority decides not to allow the application to proceed, any properly made submissions for the application continue to have effect.

‘Division 3 Submissions about applications

‘160 Right to make submission

‘An entity may, within the submission period, make a submission to the administering authority about the application.

‘161 Acceptance of submission

- ‘(1) The administering authority must accept a submission if it—
- (a) is written or made electronically; and
 - (b) states the name and address of each submitter; and
 - (c) is made to the administering authority; and
 - (d) is received on or before the last day of the submission period; and
 - (e) states the grounds of the submission and the facts and circumstances relied on in support of the grounds.
- ‘(2) A submission that complies with subsection (1) is a *properly made submission*.
- ‘(3) The authority may accept a written submission even if it is not a properly made submission.

‘162 Amendment of submission

- ‘(1) If the administering authority has accepted a submission, the entity that made the submission may, by written notice, amend or replace the submission.
- ‘(2) A notice under subsection (1) must be given to the administering authority before the submission period ends.

‘163 Particular submissions apply for later applications

- ‘(1) This section applies if—
- (a) an application is withdrawn; and
 - (b) within 1 year after the withdrawal, the applicant makes a later application; and
 - (c) each relevant activity for the later application is the same, or substantially the same, as the withdrawn application.

- ‘(2) Any properly made submission about the withdrawn application is taken to be a properly made submission about the later application.

‘Division 4 End of notification stage

‘164 When does notification stage end

‘The notification stage for an application to which the notification stage applies ends—

- | (a) if the applicant gives a ~~statutory~~ declaration under section 158(1) within the period mentioned in section 158(2)—when the administering authority receives the
- | ~~statutory~~ declaration; or
- (b) if paragraph (a) does not apply and the administering authority decides under section 159(2) to allow the application to proceed—when notice of the decision is given under section 159(4).

‘Part 5 Decision stage

‘Division 1 Preliminary

‘165 When does decision stage start—general

- ‘(1) The decision stage for an application starts the day after all other stages applying to the application have ended.
- ‘(2) This section only applies for an application if sections 166 and 167 do not apply to the application.

‘166 When does decision stage start—application relating to development applications

- ‘(1) This section applies if, under section 115, a development application is taken to also be an application for an environmental authority.
- ‘(2) The decision stage for the application for the environmental authority starts—
 - (a) if the administering authority is the assessment manager for the development application under the Planning Act—the day the decision stage for the development application starts under the Planning Act; or
 - (b) if the administering authority is a concurrence agency for the development application under the Planning Act—the day the referral agency’s assessment period for the development application starts under the Planning Act.

‘167 When does decision stage start—site-specific application relating to significant project

- ‘(1) This section applies for a site-specific application that relates to a significant project for which an EIS is required under the State Development Act.
- ‘(2) The decision stage for the application starts the day the Coordinator-General gives the proponent a copy of the Coordinator-General’s report under the State Development Act.

‘Division 2 Deciding application

‘Subdivision 1 Decision period

‘168 When decision must be made—generally

- ‘(1) If section 169 does not apply, a decision under subdivision 2 must be made within 20 business days after the day the decision stage for the application starts.
- ‘(2) The administering authority may, by written notice given to the applicant and without the applicant’s agreement, extend the period mentioned in subsection (1) by not more than 20 business days.
- ‘(3) Only 1 notice may be given under subsection (2) and it must be given before the period ends.
- ‘(4) However, the period may be further extended if the applicant, at any time before the decision is made, gives written agreement to the extension.

‘169 When decision must be made—particular applications

- ‘(1) This section applies if, under section 115, a development application is taken to also be an application for an environmental authority.
- ‘(2) If the administering authority is the assessment manager for the development application under the Planning Act, a decision under subdivision 2 must be made within the decision-making period for the development application under the Planning Act, including any extension of that period.
- ‘(3) If the administering authority is a concurrence agency for the development application under the Planning Act, a decision under subdivision 2 must be made within the referral agency’s assessment period for the development application under the Planning Act, including any extension of that period.

‘Subdivision 2 Decision

‘170 Deciding standard application

- ‘(1) This section applies for a standard application.

- ‘(2) The administering authority must decide—
- (a) that the application be approved subject to the standard conditions for the relevant activity or authority; or
 - (b) if the application is for a mining activity relating to a mining lease and a properly made submission is made for the application—that the applicant be issued an environmental authority on conditions that are different to the standard conditions for the activity or authority.
- ‘(3) However, the administering authority may only make a decision under subsection (2)(b) if the properly made submission relates to the subject of the standard condition to be changed.

‘171 Deciding variation application

- ‘(1) This section applies for a variation application.
- ‘(2) The administering authority must decide—
- (a) that the application be approved subject to conditions that are different to the standard conditions for the activity or authority; or
 - (b) that the applicant be issued an environmental authority subject to the standard conditions for the activity or authority.

‘172 Deciding site-specific application

- ‘(1) This section applies for a site-specific application.
- ‘(2) The administering authority must decide that the application—
- (a) be approved subject to conditions; or
 - (b) be refused.

‘173 When particular applications must be refused

- ‘(1) The administering authority must refuse an application if—

- (a) the applicant is not a registered suitable operator; and
 - (b) an application for registration made by the applicant under section 318F is refused.
- ‘(2) Subsection (3) applies if—
- (a) under section 115, a development application is taken to also be an application for an environmental authority; and
 - (b) either—
 - (i) if the administering authority is a concurrence agency for the development application—the authority tells the assessment manager to refuse the development application or that any approval must be a preliminary approval only under the Planning Act, section 287; or
 - (ii) if the administering authority is the assessment manager for the development application—the authority refuses the development application or gives a preliminary approval only under the Planning Act, section 324.
- ‘(3) The administering authority must refuse the application for an environmental authority.
- ‘(4) This section applies despite sections 170, 171, 172 and 174.

‘174 Applications relating to wild river areas

- ‘(1) This section applies to an application for a prescribed ERA to the extent it relates to a wild river area, other than an application for—
- (a) a sewage ERA or water treatment ERA in a designated urban area; or
 - (b) an exempt prescribed ERA in a designated urban area.
- ‘(2) The administering authority’s decision must comply with the applicable code mentioned in the wild river declaration for the area.

‘(3) For an activity that is a sewage ERA or water treatment ERA in a wild river high preservation area, the administering authority must, in deciding the application, be satisfied there is no viable location for the activity outside the wild river high preservation area.

‘(4) In this section—

applicable code see the Planning Act, schedule 3.

designated urban area see the *Wild Rivers Act 2005*, schedule.

exempt prescribed ERA means a prescribed ERA prescribed under a regulation for this definition.

sewage ERA means a prescribed ERA prescribed under a regulation for this section, relating to sewage treatment.

water treatment ERA means a prescribed ERA prescribed under a regulation for this section, relating to water treatment.

‘175 **Criteria for decision—standard application**

‘(1) This section applies for a standard application for a mining activity relating to a mining lease if a properly made submission is made for the application.

‘(2) In deciding the application, the administering authority must—

(a) comply with any relevant regulatory requirement; and

(b) subject to paragraph (a), have regard to each of the following—

(i) the application;

(ii) the standard conditions for the relevant activity or authority;

(iii) the standard criteria.

‘176 Criteria for decision—variation or site-specific application

- ‘(1) This section applies for a variation or site-specific application.
- ‘(2) In deciding the application, the administering authority must—
 - (a) comply with any relevant regulatory requirement; and
 - (b) subject to paragraph (a), have regard to each of the following—
 - (i) the application;
 - (ii) any standard conditions for the relevant activity or authority;
 - (iii) any response given for an information request;
 - (iv) the standard criteria.
- ‘(3) Despite subsection (2)(b), if the application is a variation application, the matters mentioned in subsection (2)(b) may only be considered to the extent they relate to the subject of the condition to be changed.

‘177 Automatic decision for standard application in particular circumstances

- ‘If the administering authority does not decide a standard application within the period required under subdivision 1 for the application—
- (a) the administering authority is taken to have decided to approve the application on the standard conditions for the relevant activity or authority under section 170(2)(a); and
 - (b) the decision is taken to have been made on the last day of the period.

‘178 Automatic decision for variation application in particular circumstances

‘If the administering authority does not decide a variation application within the period required under subdivision 1 for the application—

- (a) the administering authority is taken to have decided to issue an environmental authority subject to the standard conditions for the activity or authority under section 171(2)(b); and
- (b) the decision is taken to have been made on the last day of the period.

‘179 Automatic decision for site-specific application in particular circumstances

‘If the administering authority does not decide a site-specific application within the period required under subdivision 1 for the application—

- (a) the administering authority is taken to have refused the application under section 172(2)(b); and
- (b) the decision is taken to have been made on the last day of the period.

‘Division 3 Applications for mining activities relating to a mining lease

‘Subdivision 1 Preliminary

‘180 Application of div 3

‘This division applies for an application for a mining activity relating to a mining lease.

‘Subdivision 2 Notice of decision

‘181 Notice of decision

- ‘(1) Within 5 business days after making a decision under division 2, subdivision 2, the administering authority must give the applicant and any submitters written notice of the decision.
- ‘(2) The notice must—
- (a) state the decision and the reasons for the decision; and
 - (b) if the decision is to approve the application or is a decision under section 170(2)(b)—
 - (i) be accompanied by a draft environmental authority in the approved form; and
 - (ii) state that a submitter may, by written notice to the administering authority, request that its submission be taken to be an objection to the application; and
 - (c) state that the applicant may, by written notice to the administering authority, request that the administering authority refer the application to the Land Court.

‘182 Submitter may give objection notice

- ‘(1) This section applies if the administering authority decides to approve the application or makes a decision under section 170(2)(b).
- ‘(2) A submitter may, by written notice (the *objection notice*) to the administering authority, request that its submission be taken to be an objection to the application.
- ‘(3) The objection notice must—
- (a) be given to the administering authority within ~~10~~²⁰ business days after the notice under section 181(1) is given; and
 - (b) state the grounds for the objection.
- ‘(4) The objection notice ceases to have effect if the objection notice is withdrawn by giving written notice to—
- (a) the administering authority; and

(b) the Land Court.

‘183 Applicant may request referral to Land Court

- ‘(1) The applicant may, by written notice to the administering authority, request that the administering authority refer the application to the Land Court.
- ‘(2) The request must be given to the administering authority within ~~10~~ 20 business days after the notice under section 181(1) is given.
- ‘(3) This section does not apply for a decision made by the administering authority to refuse an application under section 173(1).

‘Subdivision 3 Referrals to Land Court

‘184 Application of sdiv 3

‘This subdivision applies to an application for a mining activity relating to a mining lease if—

- (a) an objection notice for a submission about the application is given to the administering authority under section 182(2); or
- (b) the applicant has requested under section 183(1) that the application be referred to the Land Court.

‘185 Referral to Land Court

- ‘(1) The administering authority must refer the application to the Land Court for a decision under this subdivision (the *objections decision*).
- ‘(2) The referral must be made within 10 business days after the later of the following—
- (a) the receipt of the last objection notice under section 182;
- (b) the receipt of a request for referral under section 183.

- ‘(3) The referral must be made by filing with the registrar of the Land Court—
- (a) a notice, in the approved form, referring the application to the Land Court; and
 - (b) a copy of the application; and
 - (c) a copy of any response to an information request; and
 - (d) a copy of any submission for the application; and
 - (e) a copy of the notice given under section 181(1), including any draft environmental authority for the application; and
 - (f) a copy of any objection notice given under section 182(2); and
 - (g) a copy of any request for referral made by the applicant under section 183.
- ‘(4) The referral starts a proceeding before the Land Court for it to make the objections decision.

‘186 Parties to Land Court proceedings

‘The parties to the Land Court proceeding are as follows—

- (a) the administering authority;
- (b) the applicant;
- (c) any objector for the application;
- (d) anyone else decided by the Land Court.

‘187 Notice of referral

‘The administering authority must, within 10 business days after making the referral—

- (a) give the applicant a copy of—
 - (i) the notice mentioned in section 185(3)(a); and

- (ii) if an objection notice was given—the objection notice and the submission to which the objection notice relates; and
- (b) give any objector a copy of the notice mentioned in section 185(3)(a).

‘188 Objections decision hearing

- ‘(1) The Land Court may, of its own initiative, make orders or directions it considers appropriate for a hearing for the objections decision (the *objections decision hearing*).
- ‘(2) Without limiting subsection (1), the Land Court may make an order or direction that the objections decision hearing happen at the same time as a hearing under the Mineral Resources Act for the relevant mining tenure.

‘189 Land Court mediation of objections

- ‘(1) At any time before the objections decision is made, any party to the proceeding may ask the Land Court to conduct or provide mediation for the objector’s submission.
- ‘(2) The mediation must be conducted by the Land Court or a mediator chosen by the Land Court.

‘190 Nature of objections decision

- ‘(1) The objections decision for the application must be a recommendation to the administering authority that—
 - (a) if a draft environmental authority was given for the application—
 - (i) the application be approved on the basis of the draft environmental authority for the application; or
 - (ii) the application be approved, but on stated conditions that are different to the conditions in the draft environmental authority; or

- (iii) the application be refused; or
- (b) if a draft environmental authority was not given for the application—
 - (i) the application be approved subject to conditions; or
 - (ii) the application be refused.
- ‘(2) However, if a relevant mining lease is, or is included in, a significant project, any stated conditions under subsection (1)(a)(ii) or (b)(i)—
 - (a) must include the Coordinator-General’s conditions; and
 - (b) can not be inconsistent with a Coordinator-General’s condition.

‘191 Matters to be considered for objections decision

‘In making the objections decision for the application, the Land Court must consider the following—

- (a) the application;
- (b) any response given for an information request;
- (c) any standard conditions for the relevant activity or authority;
- (d) any draft environmental authority for the application;
- (e) any objection notice for the application;
- (f) any relevant regulatory requirement;
- (g) the standard criteria;
- (h) the status of any application under the Mineral Resources Act for each relevant mining tenure.

‘192 Notice of objections decision

‘The Land Court must, as soon as practicable after the objections decision is made, give a copy of the decision to—

- (a) the MRA Minister; and
- (b) if a relevant mining lease is, or is included in, a significant project—the State Development Minister.

‘193 Advice from MRA and State Development Ministers about objections decision

- ‘(1) This section applies if the MRA Minister or State Development Minister is given a copy of the objections decision under section 192.
- ‘(2) The MRA Minister or State Development Minister must advise the administering authority about any matter the MRA Minister or State Development Minister considers may help the administering authority to make a decision under subdivision 4 about the application.
- ‘(3) The advice must be given within the period ending at the later of the following—
 - (a) 10 business days after the copy of the decision is received;
 - (b) if the relevant Minister and the administering authority have, within the 10 business days, agreed to a longer period—the longer period.
- ‘(4) In giving the advice, the MRA Minister or State Development Minister may seek advice from any entity.
- ‘(5) A contravention of this section does not invalidate—
 - (a) a decision made about an application under subdivision 4; or
 - (b) an environmental authority issued under division 4 for the application.

‘Subdivision 4 Final decision on application

‘194 Final decision on application

- ‘(1) This section applies ~~for an application if an objections decision has been made about the application, if—~~
- (a) the administering authority referred the application to the Land Court under section 185 and an objections decision is made about the application; or
 - (b) the administering authority referred the application to the Land Court under section 185 because of an objection notice but, before an objections decision is made about the application, all objection notices for the application are withdrawn.
- ‘(2) The administering authority must decide—
- (a) if a draft environmental authority was given for the application—
 - (i) that the application be approved on the basis of the draft environmental authority for the application; or
 - (ii) that the application be approved, but on stated conditions that are different to the conditions in the draft environmental authority; or
 - (iii) that the application be refused; or
 - (b) if a draft environmental authority was not given for the application—
 - (i) that the application be approved subject to conditions; or
 - (ii) that the application be refused.
- ‘(3) The administering authority must make a final decision on the application—
- (a) ~~if the MRA Minister or the State Development Minister gives advice under section 193 within 10 business days after the last advice is received; or~~
 - (b) ~~otherwise within 20 business days after the day the period mentioned in section 193(3) ends.~~

- (a) if the MRA Minister or State Development Minister is given a copy of the objections decision under section 192—within 10 business days after the end of the longer period within which either Minister must give advice relating to the application under section 193; or
- (b) otherwise—within 10 business days after receipt by the authority of notice under section 182(4) that the last remaining objection notice for the application is withdrawn.

(4) In making the decision, the administering authority must—

- (a) have regard to—
 - (i) the objections decision, if any; and
 - (ii) ~~any advice~~ all advice, if any, given by the MRA Minister or the State Development Minister to the administering authority under section 193; and
 - (iii) if a draft environmental authority was given for the application—the draft environmental authority; and
- (b) if a draft environmental authority was not given for the application—
 - (i) comply with any relevant regulatory requirement; and
 - (ii) subject to subparagraph (i), have regard to—
 - (A) the application;
 - (B) any standard conditions for the relevant activity or authority;
 - (C) any response given for an information request;
 - (D) the standard criteria.

‘Division 4 Steps after deciding application

‘195 Issuing environmental authority

‘If the administering authority decides to approve an application or makes a decision under section 170(2)(b) or 171(2)(b), it must issue an environmental authority to the applicant—

- (a) if the application for the authority is referred to the Land Court under section 185—within 5 business days after a final decision is made under section 194(2); or
- (b) if notice of the decision is given under section 181 and the application for the authority is not referred to the Land Court under section 185—within ~~15~~ 25 business days after the notice is given under section 181; or
- (c) if a development application is taken, under section 115, to also be an application for an environmental authority—
 - (i) if the administering authority is the assessment manager for the development application under the Planning Act—when the decision notice is given under the Planning Act for the development application; or
 - (ii) if the administering authority is a concurrence agency for the development application under the Planning Act—when the administering authority gives a copy of its concurrence agency’s response to the applicant for the development application; or
- (d) otherwise—within 5 business days after a decision is made under division 2, subdivision 2.

‘196 Copy of environmental authority to be given to assessment manager in particular circumstances

‘(1) This section applies if—

- (a) a development application is taken to also be an application for an environmental authority under section 115; and

(b) the administering authority is not the assessment manager for the development application.

‘(2) A copy of any environmental authority for the application must be given to the assessment manager when the environmental authority is issued to the applicant.

‘197 Inserting environmental authority in register

‘After an environmental authority is issued, the administering authority must include a copy of the environmental authority in the relevant register.

‘198 Information notice about particular decisions

‘(1) Subsection (2) applies if the administering authority—

(a) decides to refuse an application; or

(b) decides to impose a condition on an environmental authority and the applicant has not agreed in writing to the condition or a condition to the same effect.

‘(2) The authority must give the applicant an information notice about the decision.

‘(3) The information notice must be given—

(a) for a decision mentioned in subsection (1)(a)—within 10 business days after the decision is made; or

(b) for a decision mentioned in subsection (1)(b)—when the environmental authority is issued to the applicant.

‘(4) If the administering authority decides to approve an application, it must, within 10 business days after the decision is made, give any submitter for the application an information notice about the decision.

‘(5) This section does not apply for a decision about an application for a mining activity relating to a mining lease.

‘Division 5 Environmental authorities

‘199 Requirements for environmental authority

‘An environmental authority must—

- (a) be in the approved form; and
- (b) contain all conditions imposed on the authority; and
- (c) identify any conditions that are standard conditions.

‘200 When environmental authority takes effect

‘(1) An environmental authority has effect—

- (a) if the authority is for a prescribed ERA and it states that it takes effect on the day nominated by the holder of the authority in a written notice given to the administering authority—on the nominated day; or
- (b) if the authority states a day or an event for it to take ~~effect and paragraph (a) does not apply~~effect—on the stated day or when the stated event happens; or
- ~~(c) if the authority is for a prescribed ERA and paragraphs (a) and (b) do not apply on the day any necessary development permit for a material change of use of premises for a use that relates to the authority takes effect; or~~
- ~~(d) if the authority is for a resource activity and paragraph (b) does not apply when the relevant tenure is granted to the applicant; or~~
- ~~(e) if paragraphs (a), (b), (c) and (d) do not apply~~otherwise—on the day the authority is issued.

‘(2) However, ~~if the day an environmental authority is a replacement environmental authority, subsections (1)(c) and (d) do~~ takes effect may not apply for the authority if, ~~before it is issued~~be before—

- ~~(a) any necessary development permit for a use relating to the authority takes effect; or~~
- ~~(b) any relevant tenure is given.~~

~~(3) The day nominated by the holder of the authority in a notice given under subsection (1)(a) can not be before the day any necessary development permit for a material change of use of premises that relates to the authority takes effect.~~

(a) if the authority is for a resource activity—the day the relevant tenure is granted to the applicant; or

(b) if a development permit for a material change of use of premises is necessary under the Planning Act for carrying out an activity that relates to the authority—the day the development permit takes effect; or

(c) if an approval of the Coordinator-General under section 84(4)(b) of the State Development Act is necessary under that Act for carrying out an activity that relates to the authority—the day the approval takes effect.

'201 Term of environmental authority

'An environmental authority continues in force until the earlier of the following to happen—

- (a) if the environmental authority states it will lapse after a stated period—the end of the stated period;
- (b) the authority is cancelled, surrendered or suspended under this chapter.

'202 Environmental authority includes conditions

'An environmental authority includes the conditions of the authority.

'Division 6 Conditions

'203 Conditions generally

'(1) The administering authority may only impose a condition on an environmental authority or draft environmental authority if—

- (a) it considers the condition is necessary or desirable; and
 - (b) if the authority is for an application to which section 115 applies—the condition relates to the carrying out of the relevant prescribed ERA.
- ‘(2) Despite subsection (1), if a regulatory requirement requires the administering authority to impose a condition on an environmental authority or draft environmental authority, the administering authority must impose the condition.
- ‘(3) Subsection (1) only applies for a proposed condition for an environmental authority given for a standard application if—
- (a) the application relates to a mining lease; and
 - (b) a properly made submission was made for the application; and
 - (c) the condition is not a standard condition for the relevant activity or authority.

‘204 Conditions that must be imposed for standard or variation applications

- ‘(1) Subsection (2) applies for an environmental authority or draft environmental authority given for a standard or variation application.
- ‘(2) The administering authority must impose on the authority a condition requiring the holder of the authority to take all reasonable steps to ensure the relevant activity complies with the eligibility criteria for the activity.
- ‘(3) A condition imposed under subsection (2) is taken to be a standard condition imposed on the authority.

‘205 Conditions that must be imposed for site-specific applications

- ‘(1) This section applies for a site-specific application if—
- (a) the administering authority decides to approve the application subject to conditions; and

-
- (b) the application relates to a significant project.
 - ‘(2) The administering authority must impose on the environmental authority or draft environmental authority any conditions for the authority stated in the Coordinator-General’s report for the relevant activity (*Coordinator-General’s conditions*).
 - ‘(3) Any other condition imposed on the authority can not be inconsistent with a Coordinator-General’s condition.

‘206 Conditions that must be imposed for environmental authorities for particular resource activities

- ‘(1) This section applies for an environmental authority issued for a resource activity other than a mining activity.
- ‘(2) The administering authority must impose on the environmental authority a condition prohibiting the use of restricted stimulation fluids.

Example for subsection (2)—

the use of hydrocarbon chemicals to stimulate the fracturing of coal seams

- ‘(3) A condition imposed under subsection (2) is taken to be a standard condition imposed on the environmental authority.
- ‘(4) In this section—

restricted stimulation fluids means fluids used for the purpose of stimulation, including fracturing, that contain the following chemicals in more than the maximum amount prescribed under a regulation—

- (a) petroleum hydrocarbons containing benzene, ethylbenzene, toluene or xylene;
- (b) chemicals that produce, or are likely to produce, benzene, ethylbenzene, toluene or xylene as the chemical breaks down in the environment.

‘207 Conditions that may be imposed

- ‘(1) A condition imposed on an environmental authority or draft environmental authority may—
- (a) be a standard condition for the authority or the relevant activity; or
 - (b) require the holder of the authority to give the administering authority a written notice (a *statement of compliance*) about a document or work relating to a relevant activity; or
 - (c) if the administering authority is satisfied all cost-effective on-site mitigation measures for a relevant activity have been, or will be, undertaken—require or otherwise relate to an environmental offset (an *environmental offset condition*); or
 - (d) relate to access to land on which the relevant activity for the authority is being carried out; or
 - (e) relate to rehabilitating or remediating environmental harm because of a relevant activity; or
 - (f) relate to action taken to prevent environmental harm because of a relevant activity.

Note—

For conditions about financial assurance, see section 292.

- ‘(2) Subsection (1) does not limit the conditions that may be imposed on an authority.
- ‘(3) A condition imposed on an authority may state that the condition continues to apply after the authority has ended or ceased to have effect.

‘208 Condition requiring statement of compliance

- ‘(1) This section applies if a condition of an environmental authority or draft environmental authority requires the holder to give the administering authority a statement of compliance about a document or work relating to a relevant activity.

- ‘(2) The condition must also state—
- (a) the criteria (the *compliance criteria*) the document or work must comply with; and
 - (b) that the statement of compliance must state whether the document or works comply with the compliance criteria; and
 - (c) the information (the *supporting information*) that must be provided to the administering authority to demonstrate compliance with the compliance criteria; and
 - (d) when the statement of compliance and supporting information must be given to the administering authority.

‘209 Environmental offset conditions

- ‘(1) An environmental offset condition may require works or activities to be carried out on land on which a relevant activity for the environmental authority is carried out or on other land in the State.
- ‘(2) An environmental offset condition may require a monetary payment to an environmental offset trust.
- ‘(3) If the environmental authority holder has entered into an agreement about an environmental offset for this section, an environmental offset condition may require the holder to comply with the agreement.
- ‘(4) The environmental authority holder may enter into an agreement with the administering authority or another entity to establish the obligations, or secure the performance, of a party to the agreement about a condition.
- ‘(5) A reference in subsection (3) or (4) to the holder of an environmental authority entering into an agreement includes the holder entering into an agreement before the environmental authority is issued.

‘210 Inconsistencies between particular conditions

- ‘(1) Subsection (2) applies if—
- (a) an environmental authority contains conditions identified in the authority as standard conditions and other conditions (the *non-standard conditions*); and
 - (b) there is any inconsistency between the standard conditions and the non-standard conditions.
- ‘(2) The non-standard conditions prevail to the extent of the inconsistency.
- ‘(3) Subsection (4) applies if there is any inconsistency between—
- (a) a native title issues condition; and
 - (b) a condition of an environmental authority.
- ‘(4) The native title issues condition prevails to the extent of the inconsistency.
- ‘(5) In this section—
- native title issues condition* means a condition imposed or made under, or as part of, the native title issues decision under the Mineral Resources Act.

‘Part 6 Amending environmental authorities by administering authority

‘Division 1 Amendments

‘211 Corrections

‘The administering authority may amend an environmental authority to correct a clerical or formal error if—

- (a) the amendment does not adversely affect the interests of the environmental authority holder or anyone else; and
- (b) the holder has been given written notice of the amendment.

‘212 Amendment of particular environmental authorities to reflect NNTT conditions

- ‘(1) This section applies for an environmental authority for a mining or petroleum activity.
- ‘(2) The administering authority may amend the environmental authority to ensure compliance with conditions included in a determination made by the NNTT under the Commonwealth Native Title Act, section 38(1)(c).
- ‘(3) The administering authority must give written notice of the amendment to the environmental authority holder.

‘213 Amendment of environmental authorities to reflect new standard conditions

- ‘(1) This section applies if—
 - (a) an environmental authority (the *existing authority*) is subject to conditions identified in the authority as standard conditions (the *existing standard conditions*) for the activity or authority; and
 - (b) after the existing authority is issued, the chief executive makes new standard conditions for the authority, or the activity to which the authority relates, under section 318D; and
 - (c) the gazette notice for the new standard conditions states the conditions may apply to existing authorities that are subject to standard conditions for the activity or authority to which the new standard conditions relate; and
 - (d) the new standard conditions are different to the existing standard conditions.

- ‘(2) The administering authority may amend the existing authority to replace the existing standard conditions with the new standard conditions.
- ‘(3) The administering authority must give written notice of the amendment to the environmental authority holder.
- ‘(4) Despite section 201, the amended environmental authority does not take effect until 1 year after the administering authority gives the holder notice under subsection (3).

‘214 Amendment of particular environmental authorities relating to development applications

- ‘(1) This section applies if—
 - (a) a development application is taken under section 115 to also be an application for an environmental authority; and
 - (b) the administering authority issues an environmental authority for the application; and
 - (c) under the Planning Act, section 321(4)(b) or 420(3), the planning chief executive or Planning Minister directs the administering authority to reissue the environmental authority.
- ‘(2) The administering authority must amend the environmental authority.
- ‘(3) The administering authority must give—
 - (a) an information notice about the amendment to the holder of the environmental authority; and
 - (b) written notice of the amendment to the assessment manager for the development application.
- ‘(4) In this section—
 - planning chief executive* means the chief executive of the department for the time being administering the Planning Act.
 - planning Minister* means the Minister for the time being administering the Planning Act.

‘215 Other amendments

- ‘(1) The administering authority may amend an environmental authority at any time if—
- (a) it considers the amendment is necessary or desirable because of a matter mentioned in subsection (2) and the procedure under division 2 is followed; ~~and or~~
 - ~~(b) the amendment relates to a matter mentioned in subsection (2); and~~
 - ~~(b)~~ (e) the ~~procedure under division 2 is followed~~ or the holder of the authority has agreed in writing to the amendment.
- ‘(2) For subsection (1)(a) ~~and (b)~~, the matter is any of the following—
- (a) a contravention of this Act or an environmental offence committed by the holder of the environmental authority;
 - (b) for an environmental authority issued for a standard or variation application—the relevant activity does not comply with the eligibility criteria for the activity;
 - (c) the authority was issued because of a materially false or misleading representation or declaration, made either orally or in writing;
 - (d) the authority was issued on the basis of a miscalculation of—
 - (i) the environmental values affected or likely to be affected by the relevant activity; or
 - (ii) the quantity or quality of contaminant permitted to be released into the environment; or
 - (iii) the effects of the release of a quantity or quality of contaminant permitted to be released into the environment;
 - (e) the approval of an environmental protection policy or the approval of an amendment of an environmental protection policy;

- (f) an environmental audit, investigation or report under chapter 7, part 2;
- (g) a compliance statement given under this chapter;
- (h) a report made by or for, or approved by, a recognised entity if the report—
 - (i) is relevant to the environmental authority or an activity carried out under it; and
 - (ii) if the administering authority is not the chief executive—has been accepted by the chief executive;
- (i) an annual return required under part 12, division 3;
- (j) a significant change in the way in which, or the extent to which, the activity is being carried out;

Example of significant change for paragraph (j)—

The conditions of an environmental authority for a mining activity authorised under a mining lease were imposed on the basis that a particular method for removing contaminants from a waste stream for a relevant mining activity would be used. The mining lease is transferred and the transferee changes the method.

- (k) for an environmental authority for a resource activity—a relevant tenure (the *old tenure*) for the authority is replaced with a new resource tenure of the same type for all or part of the old tenure's area under the resource legislation;
- (l) a surrender application under part 10 is approved for a partial surrender of an environmental authority and the administering authority considers it is appropriate to amend the environmental authority to reflect the partial surrender;
- (m) another circumstance prescribed under a regulation.

‘Division 2 Procedure for particular amendments

‘216 Application of div 2

‘This division applies if the administering authority proposes to amend an environmental authority, other than—

- (a) to make an amendment under section 211, 212, 213 or 214; or
- (b) with the written agreement of the environmental authority holder.

‘217 Notice of proposed amendment

‘(1) The administering authority must give the environmental authority holder a written notice (the *proposed amendment notice*) stating the following—

- (a) the amendment (the *proposed amendment*) the administering authority proposes to make;
- (b) the grounds for the proposed amendment;
- (c) the facts and circumstances that are the basis for the grounds;
- (d) that the holder may, within a stated period, make written representations to show why the proposed amendment should not be made.

‘(2) The stated period must end at least 20 business days after the holder is given the proposed amendment notice.

‘(3) The proposed amendment notice must be accompanied by a copy of the environmental authority showing the changes.

‘218 Considering representations

‘The administering authority must consider any written representation made within the period stated in the proposed

amendment notice by the holder of the environmental authority.

‘219 Decision on proposed amendment

- ‘(1) If, after complying with section 218, the administering authority still believes a ground exists to make the proposed amendment, it may make the amendment.
- ‘(2) The decision under subsection (1) is the *amendment decision*.
- ‘(3) If the administering authority at any time decides not to make the proposed amendment, it must promptly give the holder written notice of the decision.

‘220 Notice of amendment decision

‘The administering authority must, within 10 business days after the amendment decision is made, give the environmental authority holder an information notice about the decision.

‘Division 3 Steps for amendments

‘221 Steps for amendment

- ‘(1) Subsection (2) applies if the administering authority amends an environmental authority under this part.
- ‘(2) The administering authority must, within the relevant period—
 - (a) amend the environmental authority to give effect to the amendment; and
 - (b) issue the amended environmental authority to the holder; and
 - (c) include a copy of the amended environmental authority in the relevant register.
- ‘(3) If the amendment is made under section 214, the administering authority must also give the assessment

manager for the development application a copy of the amended environmental authority within the relevant period.

(4) In this section—

relevant period means—

- (a) if the administering authority gives a notice under section 211, 212(3) or 213(3)—10 business days after the notice is given; or
- (b) if the administering authority gives a notice under section 214(3)—any period for complying with the direction under the Planning Act, section 321(4)(b) or 420(3), stated in the direction; or
- (c) if the administering authority amends the environmental authority with the environmental authority holder's agreement—10 business days after the agreement is given; or
- (d) if the administering authority gives notice of an amendment decision under section 220—10 business days after the notice is given.

'Part 7 Amendment of environmental authorities by application

'Division 1 Preliminary

'222 Exclusions from amendment under pt 7

'The requirements of this part do not apply for—

- (a) a partial surrender of an environmental authority allowed under section 261; or
- (b) an amendment under which the holder of 2 or more environmental authorities seeks an amalgamated

environmental authority for all activities for the authorities; or

- (c) a transfer by the holder of all or part of an environmental authority to a person.

‘223 Definitions for pt 7

‘In this part—

major amendment, for an environmental authority, means an amendment that is not a minor amendment.

minor amendment, for an environmental authority, means an amendment that the administering authority is satisfied—

- (a) is not a change to a condition identified in the authority as a standard condition; and
- (b) does not significantly increase the level of environmental harm caused by the relevant activity; and
- (c) does not change any rehabilitation objectives stated in the authority in a way likely to result in significantly different impacts on environmental values than the impacts previously permitted under the authority; and
- (d) does not significantly increase the scale or intensity of the relevant activity; and
- (e) does not relate to a new relevant resource tenure for the authority that is—
 - (i) a new mining lease; or
 - (ii) a new petroleum lease; or
 - (iii) a new geothermal lease under the Geothermal Energy Act; or
 - (iv) a new GHG injection and storage lease under the GHG storage Act; and
- (f) involves an addition to the surface area for the relevant activity of no more than 10% of the existing area; and

- (g) for an environmental authority for a petroleum activity—
 - (i) if the amendment involves constructing a new pipeline—the new pipeline does not exceed 150km; and
 - (ii) if the amendment involves extending an existing pipeline—the extension does not exceed 10% of the existing length of the pipeline; and
- (h) if the amendment relates to a new relevant resource tenure for the authority that is an exploration permit or GHG permit—the amendment application under section 224 seeks an amended environmental authority that is subject to the standard conditions for the relevant activity or authority, to the extent it relates to the permit.

‘Division 2 Making amendment application

‘224 Who may apply

‘The holder of an environmental authority may, at any time, apply to the administering authority to amend the environmental authority (an *amendment application*).

Examples of when the holder may wish to make an amendment application—

- an environmental authority has been issued for a resource project and the holder proposes to carry out additional resource activities as part of the project
- to complement an application under the P&G Act, chapter 4, part 6 to amend a relevant pipeline licence

‘225 Amendment application can not be made in particular circumstances

‘Despite section 224, an amendment application for an environmental authority for a prescribed ERA can not be made if—

- (a) the proposed amendment involves changes to the relevant activity; and
- (b) under the Planning Act—
 - (i) a development permit for a material change of use of premises relating to the changed activity is necessary under the Planning Act for the carrying out of the changed activity; and
 - (ii) a development application for the development permit has not been made under the Planning Act.

‘226 Requirements for amendment application generally

- ‘(1) An amendment application must—
 - (a) be made to the administering authority; and
 - (b) be made in the approved form; and
 - (c) be accompanied by the fee prescribed under a regulation; and
 - (d) describe the proposed amendment; and
 - (e) describe the land that will be affected by the proposed amendment; and
 - (f) describe any development permits in effect under the Planning Act for the carrying out of the relevant activity for the authority; and
 - (g) state whether each relevant activity will, if the amendment is made, comply with any eligibility criteria for the activity; and
 - (h) if the application states that each relevant activity will, if the amendment is made, comply with any eligibility criteria for the activity—include a ~~statutory~~ declaration that the statement is correct; and
 - (i) state whether the application seeks to change a condition identified in the authority as a standard condition; and

- (j) if the application relates to a new relevant resource tenure for the authority that is an exploration permit or GHG permit—state whether the applicant seeks an amended environmental authority that is subject to the standard conditions for the relevant activity or authority, to the extent it relates to the permit; and
 - (k) include an assessment of the likely impact of the proposed amendment on the environmental values, including—
 - (i) a description of the environmental values likely to be affected by the proposed amendment; and
 - (ii) details of any emissions or releases likely to be generated by the proposed amendment; and
 - (iii) a description of the risk and likely magnitude of impacts on the environmental values; and
 - (iv) details of the management practices proposed to be implemented to prevent or minimise adverse impacts; and
 - (v) details of how the land the subject of the application will be rehabilitated after each relevant activity ceases; and
 - (l) include a description of the proposed measures for minimising and managing waste generated by any amendments to the relevant activity; and
 - (m) include details of any site management plan or environmental protection order that relates to the land the subject of the application; and
 - (n) include any other document relating to the application prescribed under a regulation.
- ‘(2) Subsection (1)(k) does not apply for an application if—
- (a) the process under chapter 3 for an EIS for the proposed amendment has been completed; and

- (b) an assessment of the environmental risk of the proposed amendment would be the same as the assessment in the EIS.

‘227 Requirements for amendment applications—CSG activities

- ‘(1) This section applies for an amendment application if—
 - (a) the application relates to an environmental authority for a CSG activity; and
 - (b) the proposed amendment would result in changes to the management of CSG water; and
 - ~~(c) the relevant activity for the amended environmental authority, if issued, would not comply with the eligibility criteria for the activity or authority.~~
 - (c) the CSG activity is an ineligible ERA.
- ‘(2) The application must also—
 - (a) state the matters mentioned in section 126(1); and
 - (b) comply with section 126(2).

‘Division 3 Assessment level decisions

‘228 Assessment level decision for amendment application

- ‘(1) The administering authority must, within 10 business days after receiving the amendment application, decide whether the proposed amendment is a major or minor amendment.
- ‘(2) The decision under subsection (1) is the *assessment level decision* for the application.

‘229 Notice of assessment level decision

‘The administering authority must, within 10 business days after the assessment level decision is made, give the applicant a written notice stating—

- (a) the assessment level decision; and
- (b) if the decision is that the proposed amendment is a major amendment—the reasons for the decision.

‘230 Administering authority may require public notification for particular amendment applications

‘(1) This section applies if—

- (a) an amendment application is for an environmental authority for a resource activity, other than a mining activity; and
- (b) the assessment level decision is that the amendment is a major amendment.

‘(2) The notice given under section 229 may state that part 4 applies to the amendment application if the administering authority is satisfied that—

- (a) there is likely to be a substantial increase in the risk of environmental harm under the amended environmental authority; and
- (b) the risk is the result of a substantial change in—
 - (i) the quantity or quality of contaminant permitted to be released into the environment; or
 - (ii) the results of the release of a quantity or quality of contaminant permitted to be released into the environment.

‘(3) Without limiting subsection (2)(b), each of the following is taken to be a substantial change—

- (a) an increase of 10% or more in the quantity of a contaminant to be released into the environment;

~~(b) if the amendment application is for an environmental authority for a resource project, an amendment to add to the authority—~~

~~(i) a resource activity for which no eligibility criteria are in effect; or~~

~~(ii) if the amendment application is for an environmental authority for a resource activity that does not comply with the eligibility criteria in effect—project, an amendment to add an ineligible ERA for the activity authority.~~

(4) If a notice given under section 229 includes a statement under subsection (2), the notice must also state the reasons for the decision.

‘Division 4 Process if proposed amendment is a major amendment

‘231 Application of div 4

‘This division applies if the assessment level decision for an amendment application is that the proposed amendment is a major amendment.

‘232 Relevant application process applies

‘(1) Parts 3 to 5 apply to the amendment application as if it were a site-specific application.

‘(2) Despite subsection (1), part 4 only applies to an amendment application for an environmental authority for a resource activity, other than a mining activity, if the notice given under section 229 states that it applies.

‘(3) The provisions applied under this section apply—

(a) as if a reference in sections 144 and 151 to the end of the application stage were a reference to the day notice of the assessment level decision is given; and

- (b) with any other necessary changes; and
 - (c) subject to subsection (4) and sections 233 to 235.
- ‘(4) To remove any doubt, it is declared that a submission made under section 160, as applied under subsection (1)—
- (a) may be made about an existing provision of the environmental authority only to the extent the provision is proposed to be amended under the amendment application; and
 - (b) can not be made about activities carried out under the environmental authority before the deciding of the amendment application.

‘233 Public notice of amendment application

- ‘(1) This section, and not section 152, applies for publication of the application notice for an amendment application if—
- (a) the amendment application is for an environmental authority for a mining activity authorised under a mining lease; and
 - (b) there is no certificate of public notice under the Mineral Resources Act, section 252B, for a relevant mining lease for the amendment application.
- ‘(2) Before the day that is 10 business days after the end of the information stage for the amendment application, the applicant must—
- (a) give the application notice to—
 - (i) each owner of land to which the amendment relates (the *relevant land*) and any other land necessary for access to the relevant land; and
 - (ii) each holder, or applicant for, an exploration permit or mineral development licence over the relevant land for a mineral other than a mineral to which the proposed amendment relates; and
 - (iii) the relevant local government; and

- (b) publish the notice—
 - (i) at least once in a newspaper circulating in the locality of the land to which the mining lease relates; and
 - (ii) in another way decided by the administering authority or prescribed under a regulation.
- ‘(3) The administering authority may decide another way of publishing the notice for subsection (2)(b)(ii) only if it gives the applicant an information notice about the decision before the notice is published.

‘234 Submission period

- ‘(1) This section applies only if there is no certificate of public notice under the Mineral Resources Act, section 252B, for a relevant mining lease for an amendment application.
- ‘(2) Despite sections 153(1)(g) and 154, the submission period for the application is the period fixed by the administering authority by written notice to the applicant.
- ‘(3) However, the period must be at least 20 business days and must end at least 20 business days after the publication of the application notice under section 233.

‘235 Criteria for deciding amendment application

‘Despite section 176(2)(b), the matters mentioned in section 176(2)(b) may only be considered to the extent they relate to the proposed amendment.

‘236 Changing amendment application

‘Before the amendment application is decided, the applicant may change the application by giving the administering authority—

- (a) written notice of the change; and
- (b) the fee prescribed under a regulation.

‘237 Effect on assessment of amendment application—minor change

- ‘(1) The assessment of a changed amendment application under parts 3 to 5, as applied under section 232(1), does not stop if—
- (a) the change is a minor change of the application; or
 - (b) the administering authority gives its written agreement to the change.
- ‘(2) For the changed application, the notification stage does not again apply, and is not required to restart, if—
- (a) the notification stage applied to the original amendment application; and
 - (b) the change was made during the notification stage or after the notification stage ended.

‘238 Effect on assessment of amendment application—other changes

- ‘(1) Subsections (2) to (5) apply to a changed amendment application if—
- (a) the change is not a minor change; and
 - (b) the administering authority has not given its written agreement to the change.
- ‘(2) The assessment of the application under parts 3 to 5, as applied under section 232(1), stops on the day notice of the change is received.
- ‘(3) If the information stage applies to the changed application—
- (a) the administering authority may, within 10 business days after notice of the change is received, ask the applicant to give further information needed to assess the application; and
 - (b) a request under paragraph (a) is taken to be an information request under section 140, as applied under section 232; and

- (c) if no information request is made under paragraph (a)—the information stage for the changed application is taken to have ended; and
 - (d) if the notification stage also applies to the changed application—the applicant may start the notification stage the day notice of the change is given.
- ‘(4) If the information stage does not apply to the changed application, but the notification stage applies, the assessment of the application restarts from section 152.
- ‘(5) If neither the information stage nor the notification stage apply to the changed application, the assessment of the application restarts from the start of the decision stage.
- ‘(6) Subsection (7) applies to a changed application if—
 - (a) the assessment of the application has stopped under subsection (2); and
 - (b) the notification stage applied to the original application; and
 - (c) the change was made during the notification stage or after the notification stage ended.
- ‘(7) The notification stage must be repeated unless the administering authority is satisfied the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change.

‘Division 5 Process if proposed amendment is minor amendment

‘239 Application of div 5

‘This division applies if the assessment level decision for an amendment application is that the proposed amendment is a minor amendment.

‘240 Deciding amendment application

- ‘(1) The administering authority must, within 10 business days after notice of the assessment level decision is given, decide either to approve or refuse the application.
- ‘(2) The administering authority may approve the amendment application if it is satisfied the proposed amendment is necessary or desirable.
- ‘(3) If the administering authority decides to approve the application, it may also make any other amendments to the conditions of the environmental authority it considers—
 - (a) relate to the subject matter of the proposed amendment; and
 - (b) are necessary or desirable.

‘241 Criteria for deciding amendment application

‘In deciding the application, the administering authority must—

- (a) comply with any relevant regulatory requirement; and
- (b) subject to paragraph (a), have regard to each of the following—
 - (i) the amendment application;
 - (ii) the existing environmental authority;
 - (iii) the standard criteria.

‘Division 6 Steps after deciding amendment application

‘242 Steps after deciding amendment application

- ‘(1) If the administering authority decides to approve the amendment application, it must, within 5 business days after the decision is made—

- (a) amend the environmental authority to give effect to the amendment; and
 - (b) issue the amended environmental authority to the applicant; and
 - (c) include a copy of the amended environmental authority in the relevant register.
- ‘(2) Subsection (3) applies if the administering authority decides to—
- (a) refuse the application; or
 - (b) make an amendment, other than an amendment agreed to by the applicant.
- ‘(3) The administering authority must, within 10 business days after the decision is made, give the applicant an information notice about the decision.

‘Part 8 Amalgamating environmental authorities

‘Division 1 Preliminary

‘243 Definitions for pt 8

‘In this part—

amalgamated corporate authority means an amalgamated environmental authority issued under section 248(b)(i).

amalgamated local government authority means an amalgamated environmental authority issued under section 248(b)(ii).

amalgamated project authority means an amalgamated environmental authority issued under section 248(b)(iii).

amalgamation application means an application under section 245.

existing environmental authority means an environmental authority the subject of an amalgamation application.

‘244 Types of amalgamated environmental authorities

‘The types of amalgamated environmental authorities are—

- (a) amalgamated corporate authorities; and
- (b) amalgamated local government authorities; and
- (c) amalgamated project authorities.

‘245 Who may apply

‘The holder of 2 or more environmental authorities may, at any time, apply to the administering authority for a new environmental authority (an *amalgamated environmental authority*) for all activities for the authorities.

‘246 Requirements for amalgamation application

‘An amalgamation application must—

- (a) be made in the approved form; and
- (b) state whether the application is for—
 - (i) an amalgamated corporate authority; or
 - (ii) an amalgamated local government authority; or
 - (iii) an amalgamated project authority; and
- (c) be supported by enough information to allow the administering authority to decide the application; and
- (d) be accompanied by the fee prescribed under a regulation.

‘Division 2 Deciding amalgamation application

‘247 Deciding amalgamation application

- ‘(1) Subject to subsections (2) and (3), the administering authority must, within 20 business days after the day the amalgamation application is received, decide to—
- (a) approve the application; or
 - (b) if the application is for an amalgamated local government authority or amalgamated project authority—refuse the application.
- ‘(2) The administering authority may only approve an application for an amalgamated local government authority if—
- (a) the applicant is a local government; and
 - (b) the relevant activities for the existing environmental authorities do not constitute a significant business activity; and
 - (c) the administering authority is satisfied there is an appropriate degree of integration between the activities.
- ‘(3) The administering authority may only approve an application for an amalgamated project authority if it is satisfied the relevant activities for the existing environmental authorities are being carried out as a single integrated operation.
- ‘(4) In this section—
- significant business activity* has the meaning given by the *Local Government Act 2009*, section 43.

‘Division 3 Miscellaneous provisions

‘248 Steps after deciding amalgamation application

‘If the administering authority decides to approve an amalgamation application, it must, within 5 business days after the decision is made—

- (a) amalgamate the existing environmental authorities to give effect to the amalgamation; and
- (b) issue to the applicant—
 - (i) if the application is for an amalgamated corporate authority—an amalgamated corporate authority; or
 - (ii) if the application is for an amalgamated local government authority—an amalgamated local government authority; or
 - (iii) if the application is for an amalgamated project authority—an amalgamated project authority; and
- (c) include a copy of the amalgamated environmental authority in the relevant register.

‘249 Information notice about particular decisions

‘The administering authority must, within 10 business days after refusing an amalgamation application, give the applicant an information notice about the decision.

‘250 Relationship between amendment application and amalgamation application

- ‘(1) This section applies if an amendment application for an environmental authority is made, but not decided, before an amalgamation application for the authority is decided.
- ‘(2) If the amalgamation application is approved, the amendment application is taken to be an amendment application for the amalgamated environmental authority.

- (e) if the proposed holder is not a registered suitable operator—be accompanied by an application for registration as a suitable operator under chapter 5A, part 4, division 1; and
- (f) be accompanied by the fee prescribed under a regulation.

‘254 Deciding transfer application

- ‘(1) The administering authority must consider each transfer application and decide to—
 - (a) approve the transfer; or
 - (b) refuse the transfer.
- ‘(2) Despite subsection (1), the application must be approved if the proposed holder is a registered suitable operator.
- ‘(3) The decision under subsection (1) must be made—
 - (a) if the proposed holder is a registered suitable operator—within 10 business days after the transfer application is received; or
 - (b) if the proposed holder is not a registered suitable operator—when an application for registration as a suitable operator is decided under chapter 5A, part 4, division 1.

‘255 Steps after deciding transfer application

- ‘(1) If the administering authority decides to approve a transfer application under section 254(1)(a), it must, within 5 business days after the decision is made—
 - (a) amend the relevant environmental authority to give effect to the transfer; and

Example for paragraph (a)—

For a transfer application for an environmental authority that is an amalgamated corporate authority, the proposed holders may be the existing holder for part of the authority and a new holder

[s 8]

for part of the authority. The administering authority must amend the existing authority by dividing it into 2 new authorities.

- (b) issue the amended environmental authority (the *transferred environmental authority*) to each holder; and
 - (c) include a copy of the transferred environmental authority in the relevant register.
- ‘(2) If the administering authority decides to refuse a transfer application, it must, within 10 business days after the decision is made, give the existing holder and the proposed holder written notice of the decision.

‘256 Notice to owners of transfer

- ‘(1) This section applies if—
- (a) a person is issued a transferred environmental authority under section 255(1)(b); and
 - (b) the person is not the owner of the land to which the authority relates.
- ‘(2) The person must, within 10 business days after receiving the authority, give each owner of the land to which the authority relates written notice it has been issued the authority.
- Maximum penalty—10 penalty units.

‘Part 10 Surrender of environmental authorities

‘Division 1 Preliminary

‘257 Who may apply for surrender

- ‘(1) The holder of an environmental authority may apply to the administering authority to surrender the environmental authority (a *surrender application*).
- ‘(2) Subsection (3) applies if—
- (a) the environmental authority relates to a mining activity; and
 - (b) under the Mineral Resources Act, the holder of the environmental authority has sought a conditional surrender of all or part of a relevant mining tenure.
- ‘(3) A surrender application may only be made for the part of the environmental authority relating to land to which a new mining tenure will not apply if the conditional surrender is approved.
- ‘(4) Subsection (5) applies if a relevant tenure for the environmental authority is to be surrendered under resource legislation.
- ‘(5) A surrender application for the authority may only be made if an application to surrender the relevant tenure is also made under resource legislation.
- ‘(6) Subsections (3) and (5) apply despite subsection (1).
- ‘(7) In this section—

conditional surrender, of a mining tenure, means a surrender in relation to the tenure of a type mentioned in the Mineral Resources Act, section 107(7), 161(4), 210(13) or 309(12).

‘258 Notice by administering authority to make surrender application

- ‘(1) This section applies for an environmental authority for—
- (a) a mining activity; or
 - (b) a petroleum activity; or
 - (c) a geothermal activity.
- ‘(2) The administering authority may, by written notice (a *surrender notice*), require the holder of the environmental authority to make a surrender application if—
- (a) a relevant tenure for the authority is cancelled; or
 - (b) a relevant tenure for the authority is, according to its provisions, to end other than by cancellation; or
 - (c) if the authority is for a petroleum activity—the area of a relevant tenure for the authority is reduced under a requirement of noncompliance action taken under resource legislation; or
 - (d) part of the area of a relevant tenure for the authority is relinquished, other than under a requirement of noncompliance action taken under resource legislation; or
 - (e) part of the area of a relevant tenure for the authority is surrendered.
- ‘(3) The surrender notice must—
- (a) state the period of at least 30 business days within which the surrender application must be made; and
 - (b) be accompanied by, or include, an information notice about the authority’s decisions to require the surrender application and to fix the stated period.
- ‘(4) A surrender application under subsection (2) must be for the environmental authority to the extent it relates to the relevant tenure cancelled, expired or affected by a relinquishment, reduction in area or partial surrender.

‘259 When surrender notice ceases to have effect

‘A surrender notice ceases to have effect if, within the period stated in the notice—

- (a) the relevant tenure is, under resource legislation—
 - (i) renewed or continued in force; or
 - (ii) consolidated with another relevant tenure; or
- (b) if the relevant tenure is a mining tenure—the tenure is replaced with a new tenure of the same type in respect of all or part of the land included in the relevant tenure; or
- (c) a replacement environmental authority is issued to the holder, and the replacement environmental authority has taken effect.

Note—

For when an environmental authority takes effect, see section 201.

‘260 Failure to comply with surrender notice

‘A person to whom a surrender notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘261 Surrender may be partial

- ‘(1) This section applies for an environmental authority for—
 - (a) a mining activity; or
 - (b) a petroleum activity; or
 - (c) a geothermal activity.
- ‘(2) The administering authority may approve a surrender application for a part of the environmental authority.

Examples for subsection (2)—

- 1 An environmental authority relates to a mining claim and a mining lease. Under the Mineral Resources Act, the holder of the authority seeks to surrender the mining lease. The holder may, under this part, seek to surrender that part of the authority that relates to the mining lease.
- 2 An environmental authority relates to 1 mining tenure. Under the Mineral Resources Act, the holder of the tenure may seek to surrender part of the tenure. The holder of the authority may, under this part, seek to surrender that part of the authority that relates to the part of the resource tenure to be surrendered.

‘Division 2 Surrender applications

‘262 Requirements for surrender application

- ‘(1) A surrender application must—
- (a) be in the approved form; and
 - (b) be supported by enough information to allow the administering authority to decide the application; and
 - (c) if the relevant activity was not carried out—be accompanied by a ~~statutory~~ declaration stating that the activity was not carried out; and
 - (d) if the relevant activity was carried out—be accompanied by—
 - (i) if the environmental authority contains conditions about rehabilitation—a final rehabilitation report for the authority that complies with section 264; and
 - (ii) a compliance statement for the environmental authority; and
 - (iii) the fee prescribed under a regulation.
- ‘(2) The compliance statement must—
- (a) be made by or for the environmental authority holder; and

- (b) state the extent to which—
 - (i) activities carried out under the environmental authority have complied with its conditions; and
 - (ii) any final rehabilitation report is accurate.

‘263 Amending surrender application

- ‘(1) The applicant may, at any time before the administering authority decides the surrender application, amend the application.
- ‘(2) However, the amendment may be made only by giving the administering authority a written notice stating the amendment.
- ‘(3) The notice must be accompanied by the fee prescribed under a regulation.
- ‘(4) If an application is amended under this section, the process for assessing and deciding the application restarts from section 265.

‘Division 3 Final rehabilitation reports

‘264 Requirements for final rehabilitation report

- ‘(1) A final rehabilitation report must—
 - (a) be in the approved form; and
 - (b) include enough information to allow the administering authority to decide whether—
 - (i) the conditions of the environmental authority have been complied with; and
 - (ii) the land on which each relevant activity for the environmental authority has been carried out has been satisfactorily rehabilitated; and
 - (c) describe any ongoing environmental management needs for the land; and

- (d) for an environmental authority for a resource activity—
- (i) state details of—
- (A) the monitoring program and the results of monitoring rehabilitation indicators required under any condition of the environmental authority; and
- (B) 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
- (ii) state an environmental risk assessment of the land; and
- (iii) propose the residual risks associated with the rehabilitation of the land, worked out under a guideline or other document publicly available from the administering authority; and

Examples of proposed residual risks—

- the present value of the future costs of likely repairs
- necessary monitoring and maintenance costs
- ongoing management costs

- (e) include another matter prescribed under a regulation.

(2) The environmental risk assessment must—

- (a) use a methodology agreed to by the administering authority; and
- (b) show any part of the land that is likely to change or fail to the extent that monitoring, maintenance, reconstruction or other remedial action may be necessary.

‘Division 4 Requests for information

‘265 Administering authority may request further information

- ‘(1) The administering authority may ask the applicant, by written request, to give further information needed to assess the surrender application.
- ‘(2) The request must be made within 10 business days after the application is received.

‘Division 5 Deciding surrender applications

‘266 Deciding surrender application

- ‘(1) The administering authority must decide to—
 - (a) approve the surrender application; or
 - (b) refuse the surrender application.
- ‘(2) A decision under subsection (1) must be made within the latest of the following periods to end—
 - (a) if the administering authority requests further information under section 265(1)—40 business days after the further information is received by the authority;
 - (b) if the administering authority does not request further information under section 265(1)—40 business days after the application is made;
 - (c) if the environmental authority is for a resource activity and the relevant tenure is an exploration permit or mineral development licence—60 business days after the relevant tenure ends;
 - (d) if the environmental authority is for a resource activity and the relevant tenure is a mining lease or petroleum lease—90 business days after the relevant tenure ends.

‘267 Advice from MRA chief executive about surrender application

- ‘(1) The administering authority may, before it makes a decision to refuse a surrender application for an environmental authority for a mining activity, seek advice from the chief executive of the MRA department.
- ‘(2) The advice may be sought in the way the administering authority considers appropriate.
- ‘(3) If the advice is given, it must be given within the period required under section 266(2) for the administering authority to make the decision.

‘268 Criteria for decision

| ‘In deciding a surrender application, the administering authority must—

- (a) comply with any relevant regulatory requirement; and
- (b) subject to paragraph (a), consider each of the following—
 - (i) the application;
 - (ii) any monitoring results relating to the rehabilitated area the subject of the application;
 - (iii) the final rehabilitation report for the environmental authority;
 - (iv) the compliance statement for the environmental authority, or the part of the environmental authority the subject of the application;
 - (v) any advice given by the chief executive of the MRA department under section 267;
 - (vi) another matter prescribed under an environmental protection policy or a regulation; and
- (c) if a progressive certification has been given for a relevant tenure for the environmental authority—

- (i) confirm that the certified rehabilitated area for the relevant tenure still meets the criteria under section 318ZI against which it was certified; and
- (ii) if the confirmation is made—give full effect to the certification; and
- (d) if the environmental authority relates to land for which particulars are or were recorded in the environmental management register—consider whether or not the land has been removed from the environmental management register or the land has a site management plan approved for it.

'269 Restrictions on giving approval

The administering authority may only approve a surrender application if—

- (a) the authority is satisfied the conditions of the environmental authority have been complied with; and
- (b) if the environmental authority is subject to conditions requiring rehabilitation—
 - (i) the authority is satisfied the land on which each relevant activity for the environmental authority has been carried out has been satisfactorily rehabilitated; or
 - (ii) the authority has approved a transitional environmental program and it is satisfied the land will be satisfactorily rehabilitated under the program; and
- ~~(c) if the environmental authority relates to land for which particulars are or were recorded in the environmental management register—a suitability statement has been given for the land and—~~
 - ~~(i) the land has been taken off the environmental management register; or~~

~~(ii) a site management plan has been approved for the land; and~~

(dc) if a regulation has prescribed another circumstance for this section—the administering authority is satisfied of the circumstance.

‘270 When application may be refused

- ‘(1) This section applies if—
- (a) a surrender application for a partial surrender of an environmental authority for an ERA project is made; and
 - (b) if the application was approved, the environmental authority would not apply to all remaining areas that form the project.
- ‘(2) Without limiting sections 266(1) and 268, the administering authority may refuse the surrender application.

‘Division 6 Residual risk requirements

‘271 Payment may be required for residual risks of rehabilitation

- ‘(1) This section applies for a surrender application for an environmental authority for a resource activity.
- ‘(2) The administering authority may, by written notice, require the applicant to pay it a stated amount within a stated reasonable period for the residual risks of the area the subject of the environmental authority (the *relevant area*).
- ‘(3) A requirement under subsection (2) is a *residual risks requirement*.
- ‘(4) If a progressive certification has previously been given for a relevant tenure for the environmental authority, the administering authority must, in deciding to require the payment—

-
- (a) confirm that the area still meets the criteria under section 318ZI against which it was certified; and
 - (b) take into account any previous payment for the progressive certification.

Note—

See chapter 5A (General provisions about environmentally relevant activities), part 6 (Progressive rehabilitation), division 2 (Payment for residual risks of rehabilitation).

‘272 Criteria for decision to make residual risks requirement

‘The administering authority may make a residual risks requirement for the surrender application only if it is satisfied the requirement is justified having regard to—

- (a) the degree of risk of environmental harm likely to happen if the relevant area is managed under the relevant requirements of this Act and instruments made under it; and
- (b) the likelihood of action being needed to—
 - (i) reinstate rehabilitation that fails to establish a safe, stable and self-sustaining ecosystem; or
 - (ii) maintain environmental management processes needed to protect the environment; or

Example of an action for subparagraph (ii)—

plugging a GHG well that is found to be leaking GHG into an overlying aquifer

- (iii) restore the environment because of environmental harm resulting from relevant resource activities for the environmental authority; and

Example of an action for subparagraph (iii)—

pumping contaminated water to the surface for treatment

- (c) the cost of likely action in comparison with the cost of best practice environmental management of the similar

use of land that has not previously been affected by the activities.

‘273 Amount and form of payment

- ‘(1) The administering authority must decide the amount and form of the payment required.
- ‘(2) The administering authority may decide the amount by reference to a guideline or other publicly available document.
- ‘(3) Despite subsections (1) and (2), the administering authority can not require a payment of an amount more than the amount that, in the authority’s opinion, represents the likely rehabilitation costs.
- ‘(4) In this section—

likely rehabilitation costs means all likely costs and expenses that may be incurred in taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the residual risks of the relevant area.

‘Division 7 Directions about rehabilitation

‘274 Directions to carry out rehabilitation may be given if surrender refused

- ‘(1) This section applies if the administering authority decides to refuse a surrender application for an environmental authority for a resource activity.
- ‘(2) The administering authority may give the applicant a written direction (the *rehabilitation direction*) to carry out further stated rehabilitation within a stated reasonable period.
- ‘(3) The direction must be given to the applicant with the notice of the refusal of the application required under section 275(b).
- ‘(4) The notice of refusal must also include an information notice about the decision to give the direction.
- ‘(5) In this section—

rehabilitation includes environmental management.

‘Division 8 Miscellaneous provisions

‘275 Steps after deciding surrender application

‘The administering authority must, within 10 business days after deciding a surrender application—

- (a) if the decision is to approve the surrender—
 - (i) record ~~particulars of~~ the surrender in the relevant register; and
 - (ii) give the applicant—
 - (A) written notice of the decision; and
 - (B) an information notice about any decision under section 271 for the application; or
- (b) if the decision is to refuse the surrender—give the applicant an information notice about the decision.

‘276 Restriction on surrender taking effect if payment required for residual risks

- ‘(1) This section applies if the applicant has, under section 271, been required to pay an amount for residual risks of the area the subject of a surrender application.
- ‘(2) Despite section 275, a decision to approve the surrender does not take effect until the requirement has been complied with.

‘Part 11 Cancellation or suspension of environmental authorities

‘Division 1 Preliminary

‘277 Automatic cancellation if replacement environmental authority given

- ‘(1) An environmental authority is cancelled if a replacement environmental authority for the authority has taken effect.
- ‘(2) The administering authority must, as soon as practicable after the replacement environmental authority takes effect, record particulars of the cancellation in the relevant register.

‘278 Cancellation or suspension by administering authority

- ‘(1) The administering authority may cancel or suspend an environmental authority if an event mentioned in subsection (2) has happened and the procedure under division 2 is followed.
- ‘(2) For subsection (1), the events are as follows—
 - (a) the environmental authority was issued because of a materially false or misleading certificate, declaration or representation, made either orally or in writing;
 - (b) financial assurance required under a condition of the environmental authority has not been given in the amount or in the form required under the notice given under section 296;
 - (c) the administering authority has, under section 307(2)(b), directed the holder to replenish financial assurance for the environmental authority and the holder has not complied with the direction;

‘280 Notice of proposed action

- ‘(1) The administering authority must give the environmental authority holder a written notice stating each of the following—
- (a) the action (the *proposed action*) the administering authority proposes taking under this division;
 - (b) the grounds for the proposed action;
 - (c) the facts and circumstances that are the basis for the grounds;
 - (d) if the proposed action is to suspend the environmental authority—the proposed suspension period;
 - (e) that the holder may, within a stated period, make written representations to show why the proposed action should not be taken.
- ‘(2) The stated period must end at least 20 business days after the holder is given the notice under subsection (1).
- ‘(3) For subsection (1)(d), the proposed suspension period may be fixed by reference to a stated event.

Example for subsection (3)—

If a ground on which the proposed action is to be taken is that financial assurance required under a condition of the environmental authority has not been given, the proposed suspension period may be stated as the period ending when the financial assurance is given.

‘281 Considering representations

‘The administering authority must consider any written representation made within the stated period by the environmental authority holder.

‘282 Decision on proposed action

- ‘(1) If, after complying with section 281, the administering authority still believes a ground exists to take the proposed action, it may—

- (a) suspend the environmental authority for no longer than the proposed suspension period; or
 - (b) if the proposed action was to cancel the environmental authority—either cancel the environmental authority or suspend it for a fixed period.
- ‘(2) The decision under subsection (1) is the *proposed action decision*.
- ‘(3) If the administering authority at any time decides not to take the proposed action, it must promptly give the environmental authority holder written notice of the decision.

‘283 Notice of proposed action decision

- ‘(1) The administering authority must, within 10 business days after the proposed action decision is made, give the environmental authority holder an information notice about the decision.
- ‘(2) If the proposed action decision relates to an environmental authority for resource activities, the administering authority must also give written notice of the decision to the chief executive administering the resource legislation.
- ‘(3) The decision takes effect on the later of the following—
- (a) the day the notice is given to the holder;
 - (b) a later day of effect stated in the notice.
- ‘(4) However, if the decision was to cancel or suspend the environmental authority because of the conviction of the holder for an offence, the cancellation or suspension—
- (a) does not take effect until—
 - (i) the period to appeal against the conviction ends; and
 - (ii) if the appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and
 - (b) has no effect if the conviction is quashed on appeal.

‘Division 3 Steps after making decision

‘284 Steps for cancellation or suspension

- ‘(1) This section applies if the proposed action decision is to take action and the decision has taken effect.
- ‘(2) The administering authority must, as soon as practicable—
 - (a) take the action; and
 - (b) record ~~particulars of~~ the action in the relevant register.
- ~~‘(3) If the action is suspension of the environmental authority—
 - (a) the particulars must state when the suspension period starts and ends; and
 - (b) the suspension ends when the suspension period is stated to end.~~
- ‘(3) Also, if the action is suspension of an environmental authority, the administering authority must record when the suspension period starts and ends in the relevant register.
- ‘(4) A suspension of an environmental authority ends at the end of the day recorded in the relevant register as the end of the suspension period.

‘Part 12 General provisions

‘Division 1 Plan of operations for environmental authority relating to mining lease or petroleum lease

‘285 Definitions for div 1

‘In this division—

plan of operations, for a relevant lease, includes any plan of operations given to the administering authority for a proposed lease substantially the same as the relevant lease.

~~*prescribed environmental authority* means—~~

- ~~(a) an environmental authority for a mining activity authorised under a mining lease; or~~
- ~~(b) an environmental authority for a petroleum activity authorised under a petroleum lease.~~

relevant lease, ~~for a prescribed environmental authority,~~ lease means—

- (a) ~~if the~~ for an environmental authority ~~is~~ for a mining activity authorised under a mining lease—the mining lease; or
- (b) ~~if the~~ for an environmental authority ~~is~~ for a petroleum activity authorised under a petroleum lease—the petroleum lease.

‘286 Application of div 1

‘This division applies for ~~a prescribed~~ an environmental authority if—

(a) the environmental authority is for—

- ~~(a)~~ eligibility criteria are not in effect for the relevant activity ~~a mining activity authorised under a mining lease; or~~
- ~~(b)~~ eligibility criteria are in effect for the relevant activity but the activity does not comply with the criteria; or
 - (ii) a petroleum activity authorised under a petroleum lease; and
- ~~(eb)~~ any relevant activity for the authority ~~relates to a significant project~~ is an ineligible ERA.

‘287 Plan of operations required before acting under relevant lease

‘The environmental authority holder must not carry out, or allow the carrying out of, an activity under the relevant lease unless—

- (a) a plan of operations for all relevant activities has been given to the administering authority; and
- (b) at least 20 business days, or a shorter period agreed in writing by the administering authority and the holder, have passed since the plan was submitted; and
- (c) the plan complies with section 288.

Maximum penalty—100 penalty units.

‘288 Requirements for plan of operations

‘(1) A plan of operations must—

- (a) describe the following—
 - (i) each relevant lease for the environmental authority;
 - (ii) the land to which each relevant lease applies;
 - (iii) the land to which the plan applies; and
- (b) state the period to which the plan applies (the *plan period*); and
- (c) include the following—
 - (i) a plan showing where all activities are to be carried out on the land;
 - (ii) an action program for complying with the conditions of the environmental authority;
 - (iii) a rehabilitation program for land disturbed or proposed to be disturbed under each relevant lease;
 - (iv) another matter prescribed under an environmental protection policy or a regulation; and

- (d) be accompanied by a compliance statement for the plan;
and
 - (e) be accompanied by the fee prescribed under a regulation.
- ‘(2) A rehabilitation program under subsection (1)(c)(iii) must state a proposed amount of financial assurance for the environmental authority for the plan period.
- ‘(3) A compliance statement under subsection (1)(d) must—
- (a) be made by or for the environmental authority holder;
and
 - (b) state the extent to which the plan complies with the conditions of the environmental authority; and
 - (c) state whether or not the amount of the financial assurance for the environmental authority has been calculated in accordance with the guideline under section 295(3)(b).
- ‘(4) The plan period can not be more than 5 years.
- ‘(5) A plan of operations may relate to 1 or more relevant leases.

‘289 Amending or replacing plan

- ‘(1) This section applies if—
- (a) the environmental authority holder has given the administering authority a plan of operations (the *original plan*); and
 - (b) the plan period for the plan under section 288(1)(b) has not ended.
- ‘(2) The holder may amend or replace the original plan at any time before the plan period ends by giving the administering authority a written notice that—
- (a) states—
 - (i) the amendment of the original plan; or
 - (ii) that the original plan is replaced; and

- (b) is accompanied by—
 - (i) for a replacement—the replacement plan; and
 - (ii) a compliance statement for the original plan, as amended, or for the replacement plan; and
 - (iii) the fee prescribed under a regulation.
- ‘(3) The compliance statement must comply with section 288(3).
- ‘(4) The holder’s plan of operations is taken to be the original plan, as amended from time to time by any amendment under this section.
- ‘(5) However, an amendment can not extend the plan period.
- ‘(6) The original plan ceases to apply if it is replaced.
- ‘(7) A replacement plan may apply for a period of no more than 5 years from when notice of it is given under this section.

‘290 Failure to comply with plan of operations

‘The environmental authority holder must, when carrying out an activity under the relevant lease, comply with the plan of operations.

Maximum penalty—100 penalty units.

‘291 Environmental authority overrides plan

- ‘(1) This section applies if there is any inconsistency between the environmental authority and a plan of operations.
- ‘(2) The authority prevails to the extent of the inconsistency.
- ‘(3) The environmental authority holder must, within 15 business days after the holder becomes aware of the inconsistency, amend the plan to remove the inconsistency.

Maximum penalty for subsection (3)—100 penalty units.

‘Division 2 Financial assurance

‘Subdivision 1 Requiring financial assurance

‘292 Requirement to give financial assurance

- ‘(1) The administering authority may, by condition of an environmental authority, require the holder of the environmental authority to give the administering authority financial assurance—
- (a) before the relevant activity is carried out under the environmental authority; and
 - (b) as security for—
 - (i) compliance with the environmental authority; and
 - (ii) costs or expenses, or likely costs or expenses, mentioned in section 298.
- ‘(2) However, the administering authority may impose a condition requiring a financial assurance to be given only if it is satisfied the condition is justified having regard to—
- (a) the degree of risk of environmental harm being caused, or that might reasonably be expected to be caused, by the relevant activity; and
 - (b) the likelihood of action being required to rehabilitate or restore and protect the environment because of environmental harm being caused by the activity; and
 - (c) the environmental record of the holder.
- ‘(3) The administering authority may require a financial assurance to remain in force until it is satisfied no claim is likely to be made on the assurance.

‘293 New holder must give financial assurance before acting under environmental authority

- ‘(1) This section applies if—

[s 8]

- (a) a condition of an environmental authority requires the holder of the authority to give the administering authority financial assurance; and
 - (b) either—
 - (i) the environmental authority is for a prescribed ERA and a transfer application for the transfer of the authority is approved; or
 - (ii) the environmental authority is for a resource activity and the holder of the relevant tenure for the authority changes.
- ‘(2) The new holder of the environmental authority must not carry out, or allow the carrying out of, an activity under the environmental authority unless the financial assurance has been given to the administering authority.

Maximum penalty—1665 penalty units.

‘Subdivision 2 Amount and form of financial assurance

‘294 Application for decision about amount and form of financial assurance

- ‘(1) This section applies if a condition requiring financial assurance is imposed on an environmental authority, other than an authority for which a plan of operations is required under section 287.

Note—

A proposed amount of financial assurance for a plan of operations must be stated in the rehabilitation program for the plan of operations under section 288(2).

- ‘(2) The holder of the authority may apply to the administering authority for a decision about the amount and form of financial assurance.
- ‘(3) The application must—

- (a) be made in the approved form; and
- (b) include any other information required to be included in the application under a guideline—
 - (i) made by the chief executive; and
 - (ii) prescribed under a regulation.

‘295 Deciding amount and form of financial assurance

- ‘(1) The administering authority must decide the amount and form of financial assurance required under a condition of an environmental authority.
- ‘(2) The decision must be made within—
 - (a) if an application is made under section 294(2)—10 business days after the application is received; or
 - (b) if the decision relates to an environmental authority for which a plan of operations is required under section 287—15 business days after the plan of operations is received; or
 - (c) the further period agreed between the holder of the environmental authority and the administering authority.
- ‘(3) In making the decision, the administering authority must have regard to—
 - (a) the regulatory requirements; and
 - (b) any criteria stated in a guideline made by the chief executive and prescribed under a regulation.
- ‘(4) Despite subsections (1) and (3), the administering authority can not require financial assurance of an amount more than the amount that, in the authority’s opinion, represents the total of likely costs and expenses that may be incurred taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the activity.

‘(5) In this section—

costs and expenses includes monitoring and maintenance costs and expenses.

‘296 Notice of decision

‘The administering authority must, within 5 business days after making a decision under section 295(1), give an information notice about the decision to the holder of the environmental authority.

‘Subdivision 3 Claiming or realising financial assurance

‘297 Definition for sdiv 3

‘In this subdivision—

environmental authority includes a cancelled or surrendered environmental authority.

‘298 Application of sdiv 3

‘This subdivision applies if the administering authority incurs, or might reasonably incur, costs or expenses in taking action to—

- (a) prevent or minimise environmental harm or rehabilitate or restore the environment, in relation to the carrying out of an activity under an environmental authority for which financial assurance has been given; or
- (b) secure compliance with an environmental authority for which financial assurance has been given.

‘299 Administering authority may claim or realise financial assurance

‘(1) The administering authority may recover the reasonable costs

or expenses of taking the action by making a claim on or realising the financial assurance or part of it.

- ‘(2) Before making the claim on or realising the financial assurance or part of it, the administering authority must give written notice to the person who gave the financial assurance.
- ‘(3) The notice must—
 - (a) state details of the action proposed to be taken; and
 - (b) state the amount of the financial assurance to be claimed or realised; and
 - (c) invite the person to make written representations to the administering authority to show why the financial assurance should not be claimed or realised as proposed; and
 - (d) state the period within which the representations may be made.
- ‘(4) The stated period must end at least 20 business days after the person is given the notice.

‘300 Considering representations

‘The administering authority must consider any written representations made within the stated period by the person who gave the financial assurance.

‘301 Decision

- ‘(1) The administering authority must, within 10 business days after the end of the stated period, decide whether to make a claim on or realise the financial assurance.
- ‘(2) If the administering authority decides to make a claim on or realise the financial assurance, it must, within 5 business days after making the decision, give the person an information notice about the decision.

‘Subdivision 4 Amending or discharging financial assurance

‘302 Who may apply

- ‘(1) The holder of an environmental authority subject to a condition that financial assurance be given may apply to the administering authority to—
- (a) amend the amount or form of financial assurance stated in a notice give under section 296; or
 - (b) discharge the financial assurance.
- ‘(2) An application may only be made under subsection (1) if the person has given the financial assurance to the administering authority.

‘303 Requirements for application

‘An application made under section 302(1) must—

- (a) be made in the approved form; and
- (b) state whether the application is seeking to—
 - (i) amend the amount or form of financial assurance stated in a notice given under section 296; or
 - (ii) discharge the financial assurance; and
- (c) if the application is to amend the amount or form of financial assurance—include details of the proposed amendment; and
- (d) include the information required under a guideline—
 - (i) made by the chief executive; and
 - (ii) prescribed under a regulation.

‘304 Administering authority may require compliance statement for particular applications

- ‘(1) This section applies if an application relates to financial assurance for an environmental authority for a resource activity.
- ‘(2) The administering authority may, by written notice, require the applicant to give it a compliance statement for the assurance before deciding the application.
- ‘(3) The compliance statement must—
 - (a) be made by or for the applicant; and
 - (b) state the extent to which activities carried out under each relevant tenure have complied with the conditions of the environmental authority; and
 - (c) state whether or not the amount of the financial assurance has been calculated having regard to the criteria stated in a guideline mentioned in section 295(3)(b).

‘305 Deciding application

- ‘(1) The administering authority must, within the relevant period—
 - (a) approve or refuse the application; and
 - (b) if the decision is to refuse the application—give the applicant an information notice about the decision.
- ‘(2) If the administering authority is deciding an application to amend the amount or form of financial assurance, the authority must consider the criteria mentioned in section 295(3).
- ‘(3) Despite subsection (1), the authority may only approve an application to discharge a financial assurance if the authority is satisfied no claim is likely to be made on the assurance.
- ‘(4) Subsection (5) applies if the application is to amend or discharge financial assurance for an environmental authority and either—

[s 8]

- (a) if the application relates to an environmental authority for a prescribed ERA—the application was made because of a transfer application for the authority; or
 - (b) if the application relates to an environmental authority for a resource activity—the application was made because of a transfer application under resource legislation for the relevant tenure.
- ‘(5) Despite subsection (1), the administering authority may withhold making a decision under subsection (1) until—
- (a) the transfer application has been approved; and
 - (b) any financial assurance for the authority required to be given by the new holder has been given; and
 - (c) the transfer has taken effect.
- ‘(6) In this section—
- relevant period* means—
- (a) if the applicant is required to give a compliance statement under section 304—20 business days after the statement is received; or
 - (b) otherwise—20 business days after the application is received.

‘306 Power to require a change to financial assurance

- ‘(1) This section applies if financial assurance has been given for an environmental authority.
- ‘(2) The administering authority may, at any time, require the holder of the environmental authority to change the amount of financial assurance.
- ‘(3) Before making a requirement under subsection (2), the administering authority must give written notice to the holder of the environmental authority.
- ‘(4) The notice must—
- (a) state details of the proposed requirement; and

- (b) invite the holder to make, within a stated period, submissions about the proposed requirement.
- ‘(5) The stated period must end at least 20 business days after the holder is given the notice.
- ‘(6) The administering authority must, before deciding to make the requirement, consider any written submissions made by the holder within the stated period.
- ‘(7) The requirement does not take effect until—
 - (a) the holder is given an information notice about the decision; or
 - (b) if the information notice states a later day of effect—the later day.
- ‘(8) In this section—
 - change*, financial assurance, includes to decrease or increase its amount.
 - financial assurance*, given, includes financial assurance changed because of a requirement previously made under subsection (2).

‘Subdivision 5 Replenishing financial assurance

‘307 Replenishment of financial assurance

- ‘(1) This section applies if—
 - (a) under subdivision 3, all or part of the financial assurance for an environmental authority for a resource activity, other than a mining activity, has been realised; and
 - (b) the environmental authority is still in force.
- ‘(2) The administering authority must give the environmental authority holder a notice—
 - (a) stating how much of the financial assurance has been used; and

- (b) directing the holder to, within 20 business days after the giving of the notice, replenish the financial assurance so that its amount and form comply with the financial assurance required under a notice given under section 296.
- ‘(3) It is a condition of the environmental authority that the holder must comply with the direction.

‘Division 3 Annual fees and returns

‘Subdivision 1 Annual notices

‘308 Annual fee and return

- ‘(1) This section applies for an environmental authority for which an annual fee is prescribed under a regulation.
- ‘(2) At least 20 business days before each anniversary day for the environmental authority, the administering authority must give the environmental authority holder a written notice (an *annual notice*).
- ‘(3) An annual notice must state—
- (a) whether or not the holder must give the administering authority an annual return in the approved form; and
 - (b) that the holder must pay the authority the appropriate annual fee, other than in a circumstance prescribed under a regulation; and
 - (c) that the annual fee payable under the notice must be paid to the administering authority within a stated reasonable time, of at least 20 business days, after the day the notice is given; and
 - (d) that if the holder does not comply with the notice, the environmental authority may be cancelled or suspended.

Note—

See section 278 (Cancellation or suspension by administering authority).

- '(4) The holder must comply with the notice.
- '(5) If the holder does not pay the annual fee within the time stated for payment in the annual notice, the administering authority may recover it as a debt.
- '(6) A failure to give the notice by the time stated in subsection (2) does not invalidate or otherwise affect the validity of the notice.

'309 Particular requirement for annual return for CSG environmental authority

- '(1) This section applies if the holder of an environmental authority for a CSG activity is required to give an annual return under section 308(3)(a).
- '(2) The annual return must include an evaluation of the effectiveness of the management of CSG water under the criteria mentioned in section 126(1)(e) for carrying out each relevant CSG activity.
- '(3) Without limiting subsection (2), the evaluation must state—
 - (a) whether or not the CSG water has been effectively managed having regard to the criteria; and
 - (b) if the water has not been effectively managed—
 - (i) the action that will be taken to ensure the water will in the future be effectively managed having regard to the criteria; and
 - (ii) when the action will be taken.

‘Subdivision 2 Changing anniversary day

‘310 ~~Application to change~~ Changing anniversary day

~~‘(1) Subsection (2) applies for the holder of an environmental authority for which an annual fee is prescribed under a regulation.~~

‘(1) The administering authority may change the anniversary day, for an environmental authority for which an annual fee is prescribed under a regulation, to another day (the *new day*) if the holder of the environmental authority—

(a) agrees in writing to the change; or

~~‘(2b) The holder may apply applies to the administering authority to change the anniversary day for the environmental authority to another day of each year (the new day).~~

~~‘(32) The application must be in the approved form and accompanied by the fee prescribed under a regulation.~~

‘311 Deciding application

~~‘(1) The administering authority must, within 20 business days after the application is made, decide whether or not to change the anniversary day to the new day.~~

~~‘(2) The administering authority may, if the holder agrees in writing, change the anniversary day for the environmental authority to another day of each year (also the *new day*).~~

‘312 Notice of decision

‘The administering authority must, within 10 business days after the decision is made, give the holder—

- (a) if the decision is to change the day—written notice of the decision; or
- (b) if the decision is not to change the day—an information notice about the decision.

‘313 When decision takes effect

‘A decision under section 311 to change the anniversary day takes effect on the later of the following days—

- (a) the day the holder is given notice of the decision;
- (b) a later day of effect stated in the notice.

‘Division 4 Non-compliance with eligibility criteria

‘314 Requirement to replace environmental authority if non-compliance with eligibility criteria

- ‘(1) This section applies if—
 - (a) an environmental authority is issued for a standard or variation application under part 5; and
 - (b) the relevant activity for the authority does not comply with the eligibility criteria for the activity.
- ‘(2) The administering authority may require the holder of the environmental authority to—
 - (a) make a site-specific application for a new environmental authority under part 2; or
 - (b) make an amendment application for the authority under part 7.
- ‘(3) Before making a requirement under subsection (2), the administering authority must give written notice of the proposed requirement to the holder of the environmental authority.
- ‘(4) The notice must state the following—
 - (a) the grounds for the requirement;
 - (b) the facts and circumstances that are the basis for the grounds;

[s 8]

(c) that the holder may, within a stated period of at least 20 business days, make written representations to show why the requirement should not be made.

‘(5) The administering authority must, before deciding to make the requirement, consider any representations made by the holder within the stated period.

‘(6) The requirement does not take effect until—

(a) the holder is given an information notice about the decision; or

(b) if the information notice states a later day of effect—on that later day.

‘(7) The holder of the authority must comply with a requirement under subsection (2).

Maximum penalty for subsection (7)—1665 penalty units.

‘Division 5 Miscellaneous provisions

‘315 **Administering authority may seek advice, comment or information about application**

‘(1) The administering authority may ask any person for advice, comment or information about an application made under this chapter at any time.

‘(2) There is no particular way advice, comment or information may be asked for and received and the request may be by public notice.

‘316 **Decision criteria are not exhaustive**

‘(1) This section applies if—

(a) an entity is deciding, or is required to decide, an application under this chapter; and

(b) a provision of this chapter requires the entity, in making the decision, to consider stated criteria or matters.

- ‘(2) The stated criteria or matters do not limit the criteria or matters the entity may consider in making the decision.

‘Chapter 5A General provisions about environmentally relevant activities

‘Part 1 Eligibility criteria

‘317 Notice of proposed eligibility criteria

- ‘(1) Before the chief executive makes eligibility criteria for an environmentally relevant activity under section 318, the chief executive must publish the following on the department’s website—
- (a) a copy of the proposed eligibility criteria; and
 - (b) a notice which states—
 - (i) that any person may make a submission to the chief executive about the proposed eligibility criteria; and
 - (ii) the period of at least 30 business days (the *consultation period*) during which the submissions may be made.
- ‘(2) The chief executive must keep the information mentioned in subsection (1) on the department’s website for all of the consultation period.

‘318 Making eligibility criteria

- ‘(1) After considering any submissions made within the consultation period, the chief executive may, by gazette

notice, make eligibility criteria for an environmentally relevant activity.

- ‘(2) The chief executive must keep a copy of the eligibility criteria made under subsection (1) available on the department’s website.
- ‘(3) The eligibility criteria take effect when a regulation approves the criteria.

‘Part 2 Standard conditions

‘318A Definition for pt 2

‘In this part—

relevant existing authority means an environmental authority that is—

- (a) issued before proposed standard conditions are made under section 318D; and
- (b) subject to conditions identified in the authority as standard conditions for the activity or authority to which the proposed standard conditions relate.

‘318B When standard conditions must be made

- ‘(1) This section applies if eligibility criteria are made for an environmentally relevant activity under section 318.
- ‘(2) The chief executive must, at the same time, make standard conditions for the activity or an authority for the activity under section 318D.

‘318C Notice of proposed standard conditions

- ‘(1) Before the chief executive makes standard conditions under section 318D, the chief executive must publish the following on the department’s website—
- (a) a copy of the proposed standard conditions;
 - (b) a notice which states—
 - (i) that any person may make a submission to the chief executive about the proposed standard conditions; and
 - (ii) the period of at least 30 business days (the *consultation period*) during which the submissions may be made.

- ‘(2) Subsections (3) and (4) apply if it is intended that the proposed standard conditions may apply to a relevant existing authority.

Note—

The administering authority may amend an existing environmental authority to reflect new standard conditions in particular circumstances. See section 213.

- ‘(3) The notice mentioned in subsection (1)(b) must also state that the proposed standard conditions may apply to a relevant existing authority.
- ‘(4) The chief executive must also give written notice of the proposed standard conditions to the holder of a relevant existing authority that is in effect immediately before the information is published under subsection (1).
- ‘(5) A notice given under subsection (4) must state—
- (a) the department’s website address for the proposed standard conditions; and
 - (b) that the proposed standard conditions may apply to the existing authority; and
 - (c) that the holder may make a submission to the chief executive about the proposed standard conditions during the consultation period.

- ‘(6) The chief executive must keep the information mentioned in subsection (1) on the department’s website for all of the consultation period.

‘318D Making standard conditions

- ‘(1) After considering any submissions made within the consultation period, the chief executive may, by gazette notice, make standard conditions for an environmentally relevant activity or an environmental authority.
- ‘(2) Subsection (3) applies if the notice mentioned in section 318C(1)(b) stated that the proposed standard conditions may apply to a relevant existing authority.
- ‘(3) The gazette notice must state whether or not the standard conditions may apply to a relevant existing authority.
- ‘(4) The administering authority must keep a copy of the standard conditions made under subsection (1) available on its website.
- ‘(5) The standard conditions take effect on—
- (a) the day the notice about the making of the standard conditions is gazetted; or
 - (b) if a later day for the commencement of the standard conditions is stated in the gazette notice—the later day.

‘Part 3 Codes of practice

‘318E Codes of practice

- ‘(1) The Minister may, by gazette notice, make codes of practice stating ways of achieving compliance with the general environmental duty for an activity that causes, or is likely to cause, environmental harm.

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- ‘(2) In making a code of practice under subsection (1), the Minister must have regard to the matters mentioned in section 319(2).
 - ‘(3) The administering authority must keep a copy of a code of practice made under subsection (1) available on its website.
 - ‘(4) A code of practice has effect for 7 years after the day it is made, unless it is earlier repealed.

‘Part 4 Registration of suitable operators

‘Division 1 Applications for registration

‘318F Application for registration

- ‘(1) A person may apply to be registered as a suitable operator for the carrying out of an environmentally relevant activity.
- ‘(2) The application must—
 - (a) be made to the ~~administering authority~~ chief executive in the approved form; and
 - (b) be accompanied by the fee prescribed under a regulation.
- ‘(3) The applicant may withdraw the application at any time before it is decided.

‘318G Deciding application

- ‘The ~~administering authority~~ chief executive must decide to refuse or approve the application within—
 - (a) if the ~~authority~~ chief executive obtains a suitability report about the applicant under section 318R—20 business days after receiving the application; or

[s 8]

- (b) otherwise—10 business days after receiving the application.

‘318H Grounds for refusing application for registration

‘The ~~administering authority~~ chief executive may refuse the application if ~~the authority is satisfied~~ satisfied that—

- (a) the applicant is not a suitable person to be registered as a suitable operator having regard to the applicant’s environmental record; or
- (b) for an applicant that is not a corporation, ~~—~~ a disqualifying event has happened in relation to the applicant or another person of whom the applicant is a partner; or
- (c) for an applicant that is a corporation, ~~—~~ a disqualifying event has happened in relation to—
 - (i) any of the corporation’s executive officers; or
 - (ii) another corporation of which any of the corporation’s executive officers are, or have been, an executive officer.

‘318I Steps after deciding application for registration

‘(1) If the ~~authority~~ chief executive decides to approve the application, ~~it~~ the chief executive must, within 5 business days after deciding the application—

- (a) give the applicant written notice stating that the application is approved; and
- (b) include the applicant’s name and address in the register of suitable operators.

‘(2) If the ~~authority~~ chief executive decides to refuse the application, ~~it~~ the chief executive must give the applicant an information notice about the decision within 5 business days after deciding the application.

‘(3) Subsection (4) applies if—

- (a) the application was made together with an application for an environmental authority under chapter 5; and
- (b) the administering authority for the application is not the chief executive.
- (4) The chief executive must also give the administering authority notice of the decision.

'318J When registration takes effect

'Each registration has effect from the day the applicant's name and address is included in the register of suitable operators.

'Division 2 Cancellling or suspending registration

'318K Cancellation or suspension of registration

'The ~~administering authority~~ chief executive may cancel or suspend a registration under this part if—

- (a) a disqualifying event has happened for—
 - (i) the registered suitable operator or another person of whom the operator is partner; or
 - (ii) if the operator is a corporation—
 - (A) any of the corporation's executive officers; or
 - (B) another corporation of which any of the corporation's executive officers are, or have been, an executive officer; or
- (b) the ~~administering authority~~ chief executive is satisfied the operator is not a suitable person to be registered as a suitable operator having regard to the applicant's environmental record.

‘318L Notice of proposed action

- ‘(1) If the ~~administering authority~~ chief executive proposes to cancel or suspend a registration, the ~~administering authority~~ chief executive must give the registered suitable operator a written notice stating—
- (a) the action (the *proposed action*) the ~~administering authority~~ chief executive proposes taking under this division; and
 - (b) the grounds for the proposed action; and
 - (c) the facts and circumstances that are the basis for the grounds; and
 - (d) if the proposed action is to suspend the registration—the proposed suspension period; and
 - (e) that the operator may make, within a stated period, written representations to show why the proposed action should not be taken.
- ‘(2) The stated period must end at least 20 business days after the operator is given the written notice.
- ‘(3) For subsection (1)(d), the proposed suspension period may be fixed by reference to a stated event.

‘318M Considering representations

‘The ~~administering authority~~ chief executive must consider any written representations made by the registered suitable operator within the stated period.

‘318N Decision on proposed action

- ‘(1) After complying with section 318M, the ~~administering authority~~ chief executive must decide to—
- (a) if the proposed action was to suspend the registration for a stated period—suspend the registration for no longer than the stated period; or
 - (b) if the proposed action was to cancel the registration—

- (i) cancel the registration; or
 - (ii) suspend it for a fixed period; or
 - (c) take no further action.
- ‘(2) The decision under subsection (1) is the *proposed action decision*.

‘318O Notice of proposed action decision

- ‘(1) If the proposed action decision is to cancel or suspend the registration, the ~~administering authority~~ chief executive must—
- (a) give the registered suitable operator an information notice about the decision within 10 business days after the decision is made; and
 - (b) if the operator is the holder of, or is acting under, an environmental authority for a resource activity—give written notice of the decision to the chief executive administering the resource legislation.
- ‘(2) If the proposed action decision is to take no further action, the ~~administering authority~~ chief executive must, within 10 business days after the decision is made, give the registered suitable operator written notice of the decision.

‘318P When decision takes effect

- ‘(1) If the proposed action decision is to cancel or suspend the registration, the decision takes effect on the later of the following—
- (a) the day the information notice is given to the operator under section 318O(1)(a);
 - (b) a later day of effect stated in the notice.
- ‘(2) However, if the decision was to cancel or suspend the registration because of the conviction of the operator for an offence, the cancellation or suspension—
- (a) does not take effect until—

- (i) the period to appeal against the conviction ends;
and
 - (ii) if the appeal is made against the conviction—the
appeal is finally decided or is otherwise ended; and
- (b) has no effect if the conviction is quashed on appeal.

‘318Q Steps for cancelling or suspending registration

- ‘(1) This section applies if the proposed action decision is to cancel or suspend the registration and the decision has taken effect.
- ‘(2) The ~~administering authority~~ chief executive must, within 10 business days—
- (a) take the action; and
 - (b) record particulars of the action in the relevant register.
- ‘(3) If the action is suspension of the registration—
- (a) the particulars must state when the suspension period starts and ends; and
 - (b) the suspension ends when the suspension period is stated to end.

‘Division 3 Investigating suitability

‘318R Investigation of applicant suitability or disqualifying events

- ‘(1) The ~~administering authority~~ chief executive may investigate a person to help it decide whether—
- (a) the person is a suitable person to be a registered suitable operator; or
 - (b) a disqualifying event has happened for the person.
- ‘(2) The ~~administering authority~~ chief executive may obtain a report on the person from an administering authority of

another State under a corresponding law about a matter mentioned in subsection (1).

- (3) The commissioner of the police service must, if asked by the ~~authority~~ chief executive, give ~~it~~ the chief executive a written report about any convictions, other than spent convictions, for environmental offences recorded against the person obtained from—
- (a) information in the commissioner's possession; and
 - (b) information the commissioner can reasonably obtain by asking officials administering police services in other Australian jurisdictions.
- (4) In this section—
- spent conviction* means a conviction—
- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
 - (b) that is not revived as prescribed by section 11 of that Act.

'318S Use of information in suitability report

- (1) This section applies if the ~~administering authority~~ chief executive is considering information contained in a report about a person obtained under section 318R (a *suitability report*).
- (2) The information must not be used for any purpose other than to make the decision for which the report was obtained.
- (3) In making the decision, the ~~authority~~ chief executive must have regard to the following matters relating to information about the commission of an offence by the person—
- (a) when the offence was committed;
 - (b) the nature of the offence and its relevance to the decision.

‘318T Notice of use of information in suitability report

‘Before using information contained in a suitability report to assess a matter mentioned in section 318R(1), the ~~administering authority~~ chief executive must—

- (a) disclose the information to the person to whom the report relates; and
- (b) allow the person a reasonable opportunity to make representations to the ~~authority~~ chief executive about the information.

‘318U Confidentiality of suitability reports

‘(1) This section applies to a person who—

- (a) is, or has been, a public service ~~employee or an employee of a local government~~ employee; and
- (b) has, in that capacity acquired information, or gained access to a suitability report about someone else (the *second person*).

‘(2) The person must not disclose the information, or give access to the report, to anyone else.

Maximum penalty—100 penalty units.

‘(3) However, subsection (2) does not apply if the disclosure of the information, or giving of access to the report, is—

- (a) with the second person’s written consent; or
- (b) to ~~an another public service~~ employee of the authority for making the decision for which the report was obtained; or
- (c) to the Land Court or the Court; or
- (d) to a person carrying out functions for the Land Court, Court or ~~administering authority~~ chief executive; or
- (e) to a person employed or engaged to give advice to the Land Court, Court or ~~administering authority~~ chief executive in the carrying out of its functions; or

- (f) under a direction or order made in a proceeding; or
- (g) expressly permitted or required under another Act.

‘318V Destruction of suitability reports

- ‘(1) This section applies if the ~~administering authority~~ ~~chief executive~~ has obtained a suitability report and ~~it has~~ made the decision for which the report was obtained.
- ‘(2) The ~~authority~~ ~~chief executive~~ must destroy the report as soon as practicable after the later of the following—
 - (a) if the report wholly or partly relates to a conviction for an environmental offence—
 - (i) if an appeal is made against the conviction—the deciding or other ending of the appeal and any appeal from that appeal; or
 - (ii) otherwise—the end of the period to appeal against the conviction;
 - (b) the end of the period under this Act to appeal against, or apply for a review of, the decision;
 - (c) the deciding or other ending of an appeal or review mentioned in paragraph (b) and any appeal from that appeal or review.

‘Part 5 Work diary requirements for particular registered suitable operators

‘318W Application of pt 5

- ‘(1) This part applies to a registered suitable operator carrying out a prescribed ERA that is a mobile and temporary

environmentally relevant activity, unless the activity is regulated waste transport.

‘(2) In this section—

regulated waste transport means a prescribed ERA prescribed under a regulation for this section, relating to the transport of waste.

‘318X Requirement to keep work diary

‘(1) A registered suitable operator must keep a work diary in the approved form for a mobile and temporary environmentally relevant activity carried out by the operator.

Maximum penalty—100 penalty units.

‘(2) The approved form must provide for the inclusion of the following—

(a) details of each location at which the mobile and temporary environmentally relevant activity is carried out by the registered suitable operator;

(b) the days on which the activity is carried out by the operator.

‘(3) The registered suitable operator must record the information required under the approved form within 1 day after the day the operator vacates each location at which the mobile and temporary environmentally relevant activity is carried out, unless the operator has a reasonable excuse.

Maximum penalty—100 penalty units.

‘(4) The registered suitable operator must keep the work diary for 2 years after the day on which the operator vacates the last location at which the mobile and temporary environmentally relevant activity is carried out, unless the operator has a reasonable excuse.

Maximum penalty—100 penalty units.

‘318Y Requirement to notify chief executive if work diary lost or stolen

‘(1) A registered suitable operator who becomes aware that the operator’s work diary has been lost or stolen must, within 7 business days, give the chief executive written notice that the diary has been lost or stolen, unless the operator has a reasonable excuse.

Maximum penalty—50 penalty units.

‘(2) In this section—

work diary, of a registered suitable operator, means the work diary the operator keeps under section 318X.

‘Part 6 Progressive rehabilitation

‘Division 1 Certification of progressive rehabilitation for resource projects

‘Subdivision 1 Preliminary

‘318Z What is *progressive certification*

‘(1) The administering authority may, under this division, certify that a particular area within a relevant tenure for a resource project has been rehabilitated under all relevant requirements of—

- (a) this Act; and
- (b) the environmental authority under which the resource project is authorised; and
- (c) any relevant guideline or other document made under this Act.

‘(2) The certification is a *progressive certification* for the relevant tenure.

- ‘(3) The area the subject of the progressive certification is a *certified rehabilitated area* for the relevant tenure.

‘318ZA Effect of progressive certification

- ‘(1) If progressive certification has been given for a relevant tenure, the requirements mentioned in section 318Z(1) are taken to have been complied with for the certified rehabilitated area for the tenure.
- ‘(2) Subsection (1) applies despite another provision of this Act or any change in the requirements.
- ‘(3) However, this section is subject to section 318ZB.

‘318ZB Continuing responsibility of environmental authority holder relating to certified rehabilitated area

- ‘(1) This section applies if progressive certification has been given for a relevant tenure.
- ‘(2) The holder of the environmental authority to which the relevant tenure relates must maintain the certified rehabilitated area for the relevant tenure under the conditions of the authority in force when the certification was given (the *existing conditions*).
- ‘(3) Any change to the conditions of the environmental authority is of no effect to the extent it purports to impose a more stringent obligation for the certified rehabilitated area than any obligation applying under the existing conditions.

Example of a change to impose a more stringent requirement—

A change to an existing condition to require rehabilitation to alter a gradient to a lower slope is more stringent because of the necessarily increased costs of recontouring the gradient.

- ‘(4) The obligation under subsection (2) ends on the last of the following to happen—
- (a) the surrender under resource legislation of the relevant tenure, or part of the relevant tenure;

- (b) the environmental authority ends or ceases to have effect;
- (c) if the existing conditions include a condition requiring compliance with an obligation after the authority ends or ceases to have effect—compliance with the condition.

‘Subdivision 2 Applying for progressive certification

‘318ZC Who may apply for progressive certification

‘The holder of an environmental authority for a resource project may apply for progressive certification (the *progressive certification application*) for a relevant tenure for the environmental authority.

‘318ZD Requirements for progressive certification application

- ‘(1) The application must be—
 - (a) in the approved form; and
 - (b) supported by enough information to enable the administering authority to decide the application; and
 - (c) accompanied by—
 - (i) a progressive rehabilitation report for the environmental authority that complies with section 318ZF; and
 - (ii) a compliance statement for the report; and
 - (iii) the fee prescribed under a regulation.
- ‘(2) The compliance statement must—
 - (a) be made for the environmental authority holder; and
 - (b) state—
 - (i) the extent to which activities carried out under the environmental authority relating to the proposed

certified rehabilitated area for the relevant tenure have complied with the conditions of the environmental authority; and

- (ii) the extent to which the progressive rehabilitation report is accurate.

‘318ZE Amending progressive certification application

- ‘(1) The applicant may, at any time before the administering authority decides the progressive certification application, amend the application.
- ‘(2) However, the amendment may be made only by giving the administering authority a written notice stating the amendment.
- ‘(3) The notice must be accompanied by the fee prescribed under a regulation.
- ‘(4) If an application is amended under this section, the process for assessing and deciding the application restarts from section 318ZG.

‘Subdivision 3 Progressive rehabilitation report

‘318ZF Requirements for progressive rehabilitation report

- ‘(1) The progressive rehabilitation report must—
 - (a) contain the information required under section 264 for a final rehabilitation report, as if a reference in that section to the land were a reference to the proposed certified rehabilitated area; and
 - (b) include—
 - (i) a map of an appropriate scale that shows the proposed certified rehabilitated area; and
 - (ii) relevant information to locate the proposed certified rehabilitated area, including, for example, GPS information or a survey; and

- (iii) an environmental risk assessment for the proposed certified rehabilitated area; 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 rehabilitated area the subject of the certification.
- ‘(2) The environmental risk assessment must—
- (a) comply with a methodology published by the administering authority; and
 - (b) identify all credible risks for the proposed certified rehabilitated area; and
 - (c) evaluate the likelihood and effects of events that reach a threshold of significance published by the administering authority.

‘Subdivision 4 Requests for information

‘318ZG Administering authority may request further information

- ‘(1) The administering authority may ask the applicant, by written request, to give further information needed to assess the progressive certification application.
- ‘(2) The request must be made within 10 business days after the application is received.

‘Subdivision 5 Deciding progressive certification application

‘318ZH Deciding progressive certification application

‘The administering authority must decide to give or refuse the progressive certification—

- (a) if the administering authority requests further information under section 318ZG(1)—within 40 business days after the further information is received by the authority; or
- (b) otherwise—within 40 business days after the application is received.

‘318ZI Criteria for decision

- ‘(1) In deciding the progressive certification application, the administering authority must—
 - (a) comply with any relevant regulatory requirement; and
 - (b) subject to paragraph (a), consider the following—
 - (i) the standard criteria;
 - (ii) the progressive rehabilitation report;
 - (iii) the compliance statement for the report;
 - (iv) any further information received in response to a request under section 318ZG(1);
 - (v) another matter prescribed under an environmental protection policy or a regulation.
- ‘(2) The administering authority may give the progressive certification only if it is satisfied with the environmental risk assessment included in the progressive rehabilitation report, and—
 - (a) it is satisfied the conditions of the environmental authority have been complied with for the proposed certified rehabilitated area; or
 - (b) it is satisfied the land on which each relevant resource project has been carried out in relation to the proposed certified rehabilitated area has been satisfactorily rehabilitated; or
 - (c) if a regulation has prescribed another circumstance for this section—the administering authority is satisfied with the circumstance.

'318ZJ Steps after making decision

- '(1) If the administering authority decides the progressive certification application, it must, within 10 business days after the decision is made—
- (a) if the decision was to give the progressive certification—
 - (i) record particulars of the certification in the relevant register; and
 - (ii) give the applicant written notice of the decision; or
 - (b) if the decision was to refuse the progressive certification—give the applicant an information notice about the decision.
- '(2) However, if, under section 318ZL, a residual risk payment has been required for the proposed certified rehabilitated area, the administering authority need not act under subsection (1)(a) until the requirement has been complied with.

'Division 2 Payment for residual risks of rehabilitation

'318ZK Application of div 2

'This division applies if a progressive certification application has been made for a relevant tenure for an environmental authority for a resource project.

'318ZL Payment may be required for residual risks

- '(1) Subject to sections 318ZM and 318ZN, the administering authority may require the applicant to pay it a stated amount for the residual risks of the proposed certified rehabilitated area for the relevant tenure.
- '(2) The requirement must be included in, or be accompanied by, an information notice about the decision to make the requirement.

- ‘(3) The amount may be included in the financial assurance for the environmental authority until the surrender, under resource legislation, of the relevant tenure.

‘318ZM Criteria for decision to make requirement

‘The administering authority may require the payment only if it is satisfied it is justified having regard to—

- (a) the degree of risk of environmental harm likely to happen if the proposed certified rehabilitated area is managed under the relevant requirements of this Act and instruments made under it; and
- (b) the likelihood of action being needed to—
 - (i) reinstate rehabilitation that fails to establish a safe, stable and self-sustaining ecosystem; or
 - (ii) restore the environment because of environmental harm resulting from the resource project, despite the rehabilitation; or

Example of environmental harm—

surface accumulation of contaminants

- (iii) maintain environmental management processes needed to protect the environment; and

Examples of things that may be used for an environmental management process—

fences, pumps and water polishing wetlands

- (c) the cost of likely action in comparison with the cost of best practice environmental management of the similar use of land that has not previously been affected by resource activities.

‘318ZN Amount and form of payment

- ‘(1) The administering authority must decide the amount and form of the payment.

- ‘(2) The administering authority may decide the amount by reference to a guideline or other publicly available document.
- ‘(3) Despite subsections (1) and (2), the administering authority can not require a payment of an amount more than the amount that, in the authority’s opinion, represents the likely rehabilitation costs.
- ‘(4) In this section—
- likely rehabilitation costs* means all likely costs and expenses that may be incurred in taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the residual risks of the proposed certified rehabilitated area.’.

9 Replacement of ss 321–326

Sections 321 to 326—

omit, insert—

‘Division 1 Preliminary

‘321 What is an environmental evaluation

‘An environmental evaluation is an evaluation of an activity or event to decide—

- (a) the source, cause or extent of environmental harm being caused, or the extent of environmental harm likely to be caused, by the activity or event; and
- (b) the need for a transitional environmental program for the activity or event.

‘Division 2 Environmental audits

‘Subdivision 1 Audit requirements

‘322 Administering authority may require environmental audit about environmental authority

‘(1) The administering authority may, by written notice (an *audit notice*) require the holder of an environmental authority to—

- (a) conduct or commission an audit (an *environmental audit*) about a stated matter concerning a relevant activity; and

Examples of matters for paragraph (a)—

- 1 whether the conditions of the environmental authority have been complied with
- 2 the environmental harm a relevant activity is causing compared with the environmental harm authorised under the environmental authority
- 3 whether a plan of operations for an environmental authority complies with the conditions of the environmental authority
- 4 the accuracy of a final rehabilitation report given to the administering authority by the holder

- (b) give the administering authority an environmental report about the audit.

‘(2) However, an audit notice may be given under subsection (1) only if the administering authority is reasonably satisfied the audit is necessary or desirable.

‘323 Administering authority may require environmental audit about other matters

‘(1) Subsection (2) applies if the administering authority is satisfied that—

- (a) a person is, or has been, contravening a regulation, an environmental protection policy or a transitional environmental program; or
- (b) a person is, or has been, contravening any of the following provisions—
 - (i) section 363E;
 - (ii) section 440Q;

(iii) section 440ZG;

(iv) a provision of chapter 8, part 3D, 3E or 3F.

‘(2) The administering authority may, by written notice (also an *audit notice*), require the person to—

(a) conduct or commission an audit (also an *environmental audit*) about the matter; and

(b) give the administering authority an environmental report about the audit.

‘324 Content of audit notice

‘(1) An audit notice must state the following—

(a) the name of the recipient;

(b) if the notice is given under section 322—the environmental authority;

(c) the matter for which the environmental audit is required;

(d) that the recipient must, within a stated reasonable period—

(i) conduct or commission the environmental audit; and

(ii) give the administering authority an environmental report about the audit.

‘(2) Also, an audit notice must be accompanied by or include an information notice about the decision to give the notice and to fix the stated period.

‘325 Failure to comply with audit notice

‘A person to whom an audit notice has been given must comply with the notice unless the person has a reasonable excuse.

Note—

See also section 574A (Who may perform auditor’s functions).

Maximum penalty—300 penalty units.

‘Subdivision 2 Audits by administering authority

‘326 Administering authority may conduct environmental audit for resource activities

- ‘(1) The administering authority may decide to—
 - (a) conduct or commission an environmental audit about a stated matter concerning an environmental authority for a resource activity; or
 - (b) prepare an environmental report about the audit.
- ‘(2) However, the authority may make a decision under subsection (1) only if it is reasonably satisfied the audit or report is necessary or desirable.
- ‘(3) If the authority makes a decision under subsection (1), it must give the environmental authority holder an information notice about the decision.
- ‘(4) The authority must, within 10 business days after preparing an environmental report about the audit, give the environmental authority holder a copy of it.

‘326A Administering authority’s costs of environmental audit or report

- ‘(1) This section applies if the administering authority has, under section 326, incurred costs in conducting or commissioning an environmental audit or preparing an environmental report about the audit.
- ‘(2) The holder of the relevant environmental authority must pay the amount of the costs if—
 - (a) the costs were appropriately and reasonably incurred; and
 - (b) the administering authority has asked the holder to pay the amount.

- ‘(3) The administering authority may recover the amount as a debt.

‘Division 3 Environmental investigations

‘326B When environmental investigation required

- ‘(1) This section applies if the administering authority is satisfied on reasonable grounds that—
- (a) an event has happened causing environmental harm while an activity was being carried out; or
 - (b) an activity or proposed activity is causing, or is likely to cause environmental harm.
- ‘(2) The authority may, by written notice (an *investigation notice*), require the person who has carried out, is carrying out or is proposing to carry out the activity to—
- (a) conduct or commission an investigation (an *environmental investigation*) about the event or activity; and
 - (b) submit an environmental report about the investigation to the authority.
- ‘(3) This section does not apply if the administering authority requires an environmental audit for the event or activity.
- ‘(4) In this section—
activity includes rehabilitation or remediation work.

‘326C Content of investigation notice

- ‘(1) An investigation notice must state the following—
- (a) the name of the person to whom the notice is given;
 - (b) the matter for which the environmental investigation is required;

- (c) that the person must, within a stated reasonable period—
 - (i) conduct or commission the environmental investigation; and
 - (ii) give the administering authority an environmental report about the investigation.
- ‘(2) Also, an investigation notice must be accompanied by or include an information notice about the decision to give the notice and to fix the stated period.

‘326D Failure to comply with investigation notice

‘A person to whom an investigation notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

| ‘Division 4 Requirement for ~~statutory~~ declarations

‘326E Declarations to accompany report

- ‘(1) An environmental report submitted to the administering authority must be accompanied by a ~~statutory~~ declaration ~~by stating that~~ the recipient:—
 - (a) has not knowingly given false or misleading information to the person who carried out the environmental evaluation; and
 - (b) has given all relevant information to the person who carried out the environmental evaluation.
- ‘(2) The ~~recipient’s~~ declaration must be made—
 - (a) if the recipient is an individual—by the recipient; or
 - (b) if the recipient is a corporation—by an executive officer of the corporation.

- ~~(3) The recipient's declaration must state that the recipient—~~
- ~~(a) has not knowingly given false or misleading information to the person who carried out the environmental evaluation; and~~
 - ~~(b) has given all relevant information to the person who carried out the environmental evaluation.~~

'Division 5 Steps after receiving environmental reports

'326F Administering authority may request further information

- '(1) This section applies for an environmental report about an environmental investigation.
- '(2) The administering authority may, by written notice, ask the recipient to give further information needed to decide whether to approve the environmental report.
- '(3) The request must be made within 10 business days after the report is received.

'326G Decision about environmental report

- '(1) Subsection (2) applies if an environmental report is about an environmental audit.
- '(2) The administering authority must accept the report.
Note—
An environmental report about an environmental audit must be prepared by an auditor. See section 574A.
- '(3) Subsection (4) applies if an environmental report is about an environmental investigation.
- '(4) The administering authority must decide to—
 - (a) accept the report; or
 - (b) refuse to accept the report.

[s 9]

- ‘(5) The administering authority may only make a decision under subsection (4)(b) if the authority is satisfied the report does not adequately address the relevant matters for the environmental investigation to which the report relates.
- ‘(6) A decision under subsection (4) must be made—
 - (a) if a request for further information was made under section 326F—within 20 business days after the further information is received; or
 - (b) otherwise—within 20 business days after the environmental report is received.
- ‘(7) The administering authority may extend the period mentioned in subsection (6) for making the decision if—
 - (a) the authority is satisfied there are special circumstances for extending the time; and
 - (b) before the extension starts, it gives an information notice about the decision to extend to the recipient.
- ‘(8) The administering authority must give the recipient written notice of the decision within 5 business days after making the decision.

‘326H Action following acceptance of report

‘If the administering authority accepts an environmental report under section 326G, the administering authority may do 1 or more of the following—

- (a) require the recipient to prepare and submit a transitional environmental program to it;
- (b) if the recipient is the holder of an environmental authority—amend the conditions of the authority;
- (c) serve an environmental protection order on the recipient;
- (d) take any other action it considers appropriate.

‘326I Action following refusal of report

- ‘(1) Subsection (2) applies if the administering authority decides to refuse to accept an environmental report under section 326G(4)(b).
- ‘(2) The administering authority may require the recipient to conduct or commission another environmental investigation and submit a report on the investigation to it.
- ‘(3) A requirement under subsection (2) must be made by written notice given to the recipient.
- ‘(4) The notice must state—
 - (a) the relevant matters for the evaluation required; and
 - (b) a reasonable period after the notice is given by which the report must be given to the administering authority.
- ‘(5) A notice under subsection (2) must be accompanied by or include an information notice about the decision to give the notice and to fix the stated period.
- ‘(6) The recipient must comply with a requirement under subsection (2) within the period stated in the notice.

Maximum penalty for subsection (6)—300 penalty units.

‘Division 6 Miscellaneous’.

10 Omission of s 328 (Extensions of time for decisions on submissions of environmental reports)

Section 328—

omit.

11 Amendment of s 329 (Failure to make decision on environmental report taken to be refusal)

Section 329, after ‘fails to’—

omit, insert—

‘make a decision under section 326G(4) within the period stated in section 326G(6)—

- (a) the administering authority is taken to have decided to refuse to accept the report; and
- (b) the decision is taken to have been made on the last day of the period stated in section 326G(6).’.

12 Amendment of s 330 (What is a transitional environmental program)

Section 330(c)(i) and (ii)—

omit, insert—

- ‘(i) a condition of an environmental authority for the activity; or
- (ii) a development condition; or
- (iii) a prescribed condition for carrying out a mining activity authorised under a prospecting permit.’.

13 Amendment of s 331 (Content of program)

Section 331(e)—

omit, insert—

- ‘(e) if the activity is to transition to comply with a condition of an environmental authority, a development condition or a prescribed condition for carrying out a mining activity authorised under a prospecting permit, state—
 - (i) details of the condition and how the activity does not comply with it; and
 - (ii) how compliance with the condition will be achieved before the program ends; and’.

14 Amendment of s 332 (Administering authority may require draft program)

Section 332(2)(ca)—

omit, insert—

‘(ca) that a prescribed condition for carrying out a mining activity authorised under a prospecting permit is, or has been, contravened by the person or public authority carrying out the activity; or’.

15 Insertion of new s 334A

After section 334—

insert—

‘334A Administering authority may request further information

- ‘(1) The administering authority may, by written notice, ask the person or public authority that submitted the draft transitional environmental program to give further information needed to decide whether to approve the draft program.
- ‘(2) The request must be made within 10 business days after the draft program is received.’.

16 Amendment of s 335 (Public notice of submission for approval of certain draft programs)

- (1) Section 335(2), ‘Within 2 business days after the application date, the’—

omit, insert—

‘The’.

- (2) Section 335(3)—

renumber as section 335(4).

- (3) Section 335—

insert—

- ‘(3) The public notice under subsection (2) must be given—
- (a) if further information is requested under section 334A(1)—within 2 business days after a response to the request is given; or

- (b) otherwise—within 12 business days after the draft program is received by the administering authority.’.

17 Insertion of new s 336A

After section 336—

insert—

‘336A Administering authority may seek advice, comment or information about submission

- ‘(1) The administering authority may ask any person for advice, comment or information about a submission for approval of a transitional environmental program at any time.
- ‘(2) There is no particular way advice, comment or information may be asked for and received and the request may be by public notice.’.

18 Amendment of s 337 (Administering authority to consider draft programs)

- (1) Section 337(1)(b)—

omit, insert—

- ‘(b) if public notice is not required and further information is not requested under section 334A(1)—the day the draft program is received by the administering authority; or
- (c) if public notice is not required and further information is requested under section 334A(1)—the day a response to the request for further information is received.’.

- (2) Section 337(2)—

renumber as section 337(3).

- (3) Section 337—

insert—

- ‘(2) The administering authority may extend the period mentioned in subsection (1) for making the decision if, before the

extension starts, it gives an information notice about the decision to extend to—

- (a) the person or public authority that submitted the program; and
- (b) any submitters.’.

19 Amendment of s 338 (Criteria for deciding draft program)

(1) Section 338(2)—

renumber as section 338(3).

(2) Section 338—

insert—

‘(2) Subsection (1)(b) does not limit the criteria or matters the administering authority may consider in making a decision under section 339.’.

20 Amendment of s 339 (Decision about draft program)

Section 339(2)(b)—

omit, insert—

- ‘(b) a condition requiring the holder of the approval to give an amount of financial assurance as security for compliance with the transitional environmental program and any conditions of the program; and
- (c) any other conditions the administering authority considers appropriate.’.

21 Insertion of new s 343A

After section 343—

insert—

‘343A Notation of approval of transitional environmental program on particular environmental authorities

- ‘(1) This section applies for a draft transitional environmental program relating to an environmental authority.
- ‘(2) If the draft transitional environmental program is approved, the administering authority must—
- (a) include a note in the environmental authority which states—
 - (i) details of the approved transitional environmental program; and
 - (ii) that it is an offence to contravene a requirement of the program or a condition of an approval of a transitional environmental program; and
 - (b) give the holder of the environmental authority a copy of the environmental authority including the note.
- ‘(3) The note is not an amendment to the environmental authority.’.

22 Insertion of new ch 7, pt 3, div 3A

After section 344—

insert—

‘Division 3A Financial assurances

‘344A Administering authority may claim or realise financial assurance

- ‘(1) This section applies if the administering authority incurs, or might reasonably incur, costs or expenses in taking action to secure compliance with a transitional environmental program, or any conditions of the program, for which financial assurance has been given.
- ‘(2) The administering authority may recover the reasonable costs or expenses of taking the action by making a claim on or realising the financial assurance or part of it.

- '(3) Before making the claim on or realising the financial assurance or part of it, the administering authority must give written notice to the person who gave the financial assurance.
- '(4) The notice must—
 - (a) state details of the action proposed to be taken; and
 - (b) state the amount of the financial assurance to be claimed or realised; and
 - (c) invite the person to make written representations to the administering authority to show why the financial assurance should not be claimed or realised as proposed; and
 - (d) state the period within which the representations may be made.
- '(5) The stated period must end at least 20 business days after the person is given the notice.

'344B Considering representations

'The administering authority must consider any written representations made within the stated period by the person who gave the financial assurance.

'344C Decision

- '(1) The administering authority must, within 10 business days after the end of the stated period, decide whether to make a claim on or realise the financial assurance.
- '(2) If the administering authority decides to make a claim on or realise the financial assurance, it must, within 5 business days after making the decision, give the person an information notice about the decision.

‘344D Discharging financial assurance

- ‘(1) This section applies if a transitional environmental program approval is subject to a condition that financial assurance be given.
- ‘(2) At the end of the period over which the program is carried out, the administering authority must discharge the financial assurance.’.

23 Amendment of s 346 (Effect of compliance with program)

Section 346(2)(e) and (3)(e)—

omit, insert—

- ‘(e) a prescribed condition for carrying out a mining activity authorised under a prospecting permit; or’.

24 Amendment of s 347 (Notice of disposal by holder of program approval)

- (1) Section 347(1), before ‘transitional’—

insert—

‘prescribed’.

- (2) Section 347—

insert—

- ‘(7) In this section—

prescribed transitional environmental program means a transitional environmental program that does not relate to an environmental authority.’.

25 Amendment of s 358 (When order may be issued)

- (1) Section 358(d)(v) to (x)—

renumber as section 358(d)(vi) to (xi).

- (2) Section 358(d)(iva)—

omit, insert—

‘(v) a prescribed condition for carrying out a mining activity authorised under a prospecting permit; or’.

26 Amendment of s 360 (Form and content of order)

Section 360(1)(c), ‘to prevent or minimise environmental harm’—

omit, insert—

‘relevant to a matter or thing mentioned in section 358’.

27 Omission of ch 7, pt 6 (Financial assurances)

Chapter 7, part 6—

omit.

28 Replacement of s 395 (Who must prepare validation report)

Section 395—

omit, insert—

‘395 Fee for consideration of validation report

‘A person who submits a validation report to the administering authority for consideration must pay the authority the fee prescribed under a regulation.’.

29 Insertion of new ch 7, pt 8, div 5, sdiv 5

After section 419—

insert—

‘Subdivision 5 Residual risk requirement

‘419A Payment may be required for residual risks of rehabilitation

- ‘(1) This section applies if a site management plan relates to land for which particulars are recorded in the contaminated land register.
- ‘(2) The administering authority may, by written notice, require the person who submitted the draft site management plan or draft amendment of a site management plan to pay it a stated amount within a stated reasonable period for the residual risks of the area the subject of the plan or amendment (the *relevant area*).
- ‘(3) A requirement under subsection (2) is a *residual risks requirement*.

‘419B Criteria for decision to make residual risks requirement

- I ‘The administering authority may make a residual risks requirement under section 419A only if it is satisfied the requirement is justified having regard to—
- (a) the degree of risk of environmental harm likely to happen if the relevant area is managed under the relevant requirements of this Act and instruments made under it; and
 - (b) the likelihood of action being needed to—
 - (i) reinstate rehabilitation that fails to establish a safe, stable and self-sustaining ecosystem; or
 - (ii) maintain environmental management processes needed to protect the environment; or
 - (iii) restore the environment because of environmental harm resulting from the hazardous contaminant contaminating the land; and
 - (c) the cost of likely action in comparison with the cost of best practice environmental management of similar land not on the contaminated land register.

‘419C Amount and form of payment

- ‘(1) The administering authority must decide the amount and form of the payment required.
- ‘(2) The administering authority may decide the amount by reference to a guideline or other publicly available document.
- ‘(3) Despite subsections (1) and (2), the administering authority can not require a payment of an amount more than the amount that, in the authority’s opinion, represents the likely rehabilitation costs.
- ‘(4) In this section—
- likely rehabilitation costs* means all likely costs and expenses that may be incurred in taking action to rehabilitate or restore and protect the environment because of environmental harm that may be caused by the residual risks of the relevant area.’.

30 Replacement of s 426 (Environmental authority required for mining activity)

Section 426—

omit, insert—

‘426 Environmental authority required for particular environmentally relevant activities

- | ‘(1) ~~Subject to subsection (2), a~~ A person must not carry out an environmentally relevant activity unless the person holds, or is acting under, an environmental authority for the activity.

Maximum penalty—1665 penalty units.

- | ‘(2) ~~This section~~ Subsection (1) does not apply to a person carrying out—
- (a) an agricultural ERA; or
- (b) a mining activity authorised under a prospecting permit; or
- (c) a geothermal activity that, under the Geothermal Act, is—

- (i) geothermal exploration for exempt heat pump production or to evaluate the feasibility of exempt heat pump production; or
- (ii) exempt heat pump production; or
- (iii) other geothermal production that, under the Geothermal Act, is not of a large-scale.~~?~~

‘(3) Also, subsection (1) does not apply to the Coordinator-General, or another person acting on behalf of the Coordinator-General, in performing the functions or exercising the powers of the Coordinator-General under the State Development Act.’

31 Omission of ss 426A and 427

Sections 426A and 427—
omit.

32 Amendment of s 429 (Special provisions for interstate transporters of controlled waste)

- (1) Section 429(1), from ‘section 427’ to ‘activity,’—
omit, insert—
‘section 426 does not apply to the person’.

- (2) Section 429(3), definition *controlled waste*—
omit, insert—

‘***controlled waste*** has the meaning given in the controlled waste NEPM.

controlled waste NEPM means the National Environment Protection (Movement of Controlled Waste between States and Territories) Measure, made by the National Environment Protection Council under the *National Environment Protection Council Act 1994* (Cwlth).’.

- (3) Section 429(3), definition *interstate licence*, ‘authority, a development approval for a chapter 4 activity or a registration certificate,’—

omit, insert—

‘authority’.

33 Amendment of s 430 (Contravention of condition of environmental authority)

- (1) Section 430(2) and (3)—

omit, insert—

- ‘(2) The person must not wilfully contravene a condition of the authority.

Maximum penalty—2000 penalty units or 2 years imprisonment.

- ‘(3) The person must not contravene a condition of the authority.

Maximum penalty—1665 penalty units.’.

- (2) Section 430(5)—

omit.

34 Omission of s 435 (Offence to contravene development condition)

Section 435—

omit.

35 Replacement of s 435A (Offence to contravene standard environmental conditions)

Section 435A—

omit, insert—

‘435A Offence to contravene prescribed conditions for particular activities

- ‘(1) This section applies if—

- (a) a person is carrying out a mining activity that is authorised under a prospecting permit; and
 - (b) prescribed conditions are in effect for the carrying out of the activity.
- ‘(2) The person must not wilfully contravene the prescribed conditions.
Maximum penalty—300 penalty units.
- ‘(3) The person must not contravene the prescribed conditions.
Maximum penalty—250 penalty units.
- ‘(4) In a proceeding for an offence against subsection (2), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (3), the court may find the defendant guilty of the offence against subsection (3).’

36 Amendment of s 452 (Entry of place—general)

- (1) Section 452(1)(c)(i), ‘mining or chapter 5A’—
omit.
- (2) Section 452(1)(d) to (g)—
renumber as section 452(1)(f) to (i).
- (3) Section 452(1)(ca)—
omit, insert—
 - ‘(d) it is a place to which an agricultural ERA relates and the entry is made when—
 - (i) the activity is being carried out; or
 - (ii) the place is open for conduct of business; or
 - (iii) the place is otherwise open for entry; or
 - (e) it is a place to which a prescribed condition for a mining activity that is authorised under a prospecting permit relates and the entry is made when—

- (i) the activity to which the condition relates is being carried out; or
- (ii) the place is open for conduct of business; or
- (iii) the place is otherwise open for entry; or’.

37 Amendment of s 458 (Order to enter land to conduct investigation or conduct work)

- (1) Section 458(1)(a)(i), ‘registration certificate,’—

omit.

- (2) Section 458(1)(a)(iii)(C)—

omit, insert—

‘(C) a prescribed condition for carrying out a mining activity authorised under a prospecting permit; or’.

- (3) Section 458(2)(c)(ii) and (iii)—

omit, insert—

‘(ii) the transitional environmental program approval holder; and’.

38 Amendment of s 493A (When environmental harm or related acts are unlawful)

- (1) Section 493A(2)(f)—

omit, insert—

‘(f) a prescribed condition for a mining activity authorised under a prospecting permit; or’.

- (2) Section 493A(5)(a), ‘an approved code’—

omit, insert—

‘a code’.

39 Amendment of s 502 (Court may make particular orders)

Section 502(1)(b)(i) to (vii)—

omit, insert—

- ‘(i) section 426;
- (ii) section 430;
- (iii) section 435A;
- (iv) section 440ZG.’.

40 Amendment of s 520 (Dissatisfied person)

(1) Section 520(1)—

omit, insert—

- ‘(1) A *dissatisfied person*, for an original or review decision, is—
- (a) if the decision is about an EIS or the EIS process for an EIS—the relevant proponent under chapter 3, part 1, for the project to which the EIS relates; or
 - (b) if the decision is to refuse to accredit an ERMP—the person who submitted it; or
 - (c) if the decision is about an application for an environmental authority—the applicant; or
 - (d) if the decision is about an environmental authority, including financial assurance for an authority—the holder of the authority; or
 - (e) if the decision is about an application for registration of a person as a suitable operator—the applicant; or
 - (f) if the decision is about a registered suitable operator—the operator; or
 - (g) if the decision is to give an audit notice under section 322 or 323—the recipient; or
 - (h) if the decision is to conduct an environmental audit or prepare an environmental report for an audit under

section 326—the relevant environmental authority holder; or

- (i) if the decision is about an ERMP direction, environmental investigation or environmental protection order—the recipient; or
- (j) if the decision is about a transitional environmental program—the holder of an approval for the program or person or public authority that is required to submit, or submits, the program; or
- (k) if the decision is to issue a direction notice, clean-up notice or cost recovery notice—the recipient; or
- (l) if the decision is about recording particulars of land in, or removing particulars of land from, the environmental management register or contaminated land register—the land's owner; or
- (m) if the decision is about a site investigation of land—
 - (i) the recipient for the notice to conduct or commission the site investigation; and
 - (ii) the land's owner, other than for a decision under section 378 or 385; and
 - (iii) if another person conducts or commissions the site investigation—the other person; or
- (n) if the decision is about the remediation of contaminated land—
 - (i) the recipient for the remediation notice; and
 - (ii) the land's owner, other than for a decision under section 392; and
 - (iii) if another person conducts or commissions work to remediate the land—the other person; or
- (o) if the decision is about a site management plan for contaminated land—

[s 40]

- (i) the recipient for the notice to prepare or commission the site management plan, other than for a decision under section 413; and
 - (ii) the land's owner, other than for a decision under section 407; and
 - (iii) if another person prepares or commissions the plan—the other person, other than for a decision under section 413; or
 - (p) if the decision is about erecting signs on contaminated land—the land's owner; or
 - (q) if the decision is about a disposal permit—the applicant for the permit; or
 - (r) if the decision is about an exemption under chapter 8, part 3F, division 3—the person applying for, or given, the exemption; or
 - (s) if the decision is to give a notice under section 451(1)—the person to whom the notice is given; or
 - (t) if the decision is about an application for approval as an auditor under chapter 12, part 3A, division 2—the applicant; or
 - (u) if the decision is about an auditor—the auditor; or
 - (v) if the decision is about a complaint under chapter 12, part 3A, division 5—the person who made the complaint; or
 - (w) if the decision is about a conversion application under section 695—the applicant; or
 - (x) if the decision is a decision under an environmental protection policy or a regulation that the policy or regulation declares to be a decision to which this part applies—the person declared under the policy or regulation to be a dissatisfied person for the decision.'.
- (2) Section 520(2)(a) and (b)—
omit, insert—

- ‘(a) a site-specific application for an environmental authority for a petroleum activity; or
- (b) an amendment application under chapter 5, part 7 for an environmental authority for a resource activity, other than a mining activity; or’.

41 Amendment of s 521 (Procedure for review)

- (1) Section 521(4), after ‘5 business days’—
insert—
‘(the *submission period*)’.
- (2) Section 521(5), ‘10 business days after receiving the application’—
omit, insert—
‘the decision period’.
- (3) Section 521—
insert—
- ‘(14) In this section—
decision period means—
 - (a) if a submission is received within the submission period—15 business days after the administering authority receives the application; or
 - (b) if no submissions are received within the submission period—10 business days after the administering authority receives the application.’.

42 Amendment of s 522 (Stay of operation of original decisions)

- (1) Section 522, heading, after ‘operation of’—
insert—
‘**particular**’.
- (2) Section 522(1), after ‘review of an original decision’—

insert—

‘mentioned in schedule 2, part 1 or 2’.

43 Omission of s 529 (Decision for appeals against refusals under s 207)

Section 529—

omit.

44 Amendment of s 530 (Decision for other appeals)

(1) Section 530, heading, ‘other’—

omit.

(2) Section 530(1)—

omit.

(3) Section 530(2) to (5)—

renumber as section 530(1) to (4).

(4) Subsection 530(2), as renumbered, after ‘authority’—

insert—

‘unless otherwise expressly stated’.

(5) Section 530(3), as renumbered, ‘subsection (3)’—

omit, insert—

‘subsection (2)’.

45 Amendment of s 531 (Who may appeal)

(1) Section 531(2) and (3)—

renumber as section 531(3) and (4).

(2) Section 531(1)—

omit, insert—

‘(1) A dissatisfied person who is dissatisfied with a review decision may appeal against the decision to the Court.’

- ‘(2) However, the following review decisions can not be appealed against to the Court—
- (a) a review decision to which subdivision 1 applies;
 - (b) a review decision that relates to an original decision mentioned in schedule 2, part 3.’.

46 Amendment of s 538 (Appeals may be heard with planning appeals)

- (1) Section 538(1)(a)—

omit, insert—

‘(a) a person appeals against an administering authority’s decision (whether an original or review decision)—

- (i) to refuse to accredit an ERMP; or
- (ii) about an application for an environmental authority for a prescribed ERA; and’.

- (2) Section 538(1)(b), ‘certificate or the ERMP or the application for the certificate’—

omit, insert—

‘ERMP or the application for the authority’.

- (3) Section 538(2), from ‘On the application’ to ‘, the Court’—

omit, insert—

‘The Court’.

- (4) Section 538(3)—

omit.

- (5) Section 538(4)—

renumber as section 538(3).

47 Replacement of ss 540 and 541

Sections 540 and 541—

omit, insert—

‘540 Registers to be kept by administering authority

- ‘(1) The administering authority must, for its administration under this Act, keep a register of the following—
- (a) for chapter 5, the following—
 - (i) environmental authorities;
 - (ii) ~~surrenders of surrendered~~ environmental authorities;
 - (iii) suspended or cancelled environmental authorities;
 - (iv) submitted plans of operations;
 - (b) for chapter 7, part 2—environmental evaluations and environmental reports;
 - (c) monitoring programs carried out under—
 - (i) this Act; or
 - (ii) a development condition of a development approval; or
 - (iii) a condition of an environmental authority;
 - (d) the results of monitoring programs mentioned in paragraph (c);
 - (e) transitional environmental programs;
 - (f) environmental protection orders;
 - (g) direction notices;
 - (h) clean-up notices;
 - (i) cost recovery notices;
 - (j) authorised persons;
 - (k) other documents or information prescribed under regulation.
- ‘(2) A reference to a document in subsection (1) includes a reference to any amendment of the document made under this Act.

‘540A Registers to be kept by chief executive

- ‘(1) The chief executive must keep a register of the following—
- (a) for chapter 3, the following—
 - (i) submitted draft terms of reference for EISs;
 - (ii) written summaries of comments given to the chief executive about draft terms of reference for EISs;
 - (iii) final terms of reference published by the chief executive;
 - (iv) submitted EISs;
 - (v) EIS assessment reports;
 - (b) for chapter 4A—
 - (i) ERMP directions; and
 - (ii) accredited ERMPs;
 - (c) for chapter 5A, the following—
 - (i) eligibility criteria for environmentally relevant activities;
 - (ii) standard conditions;
 - (iii) codes of practice;
 - (iv) registered suitable operators;
 - (v) suspended or cancelled registrations;
 - (d) for chapter 7, part 8—
 - (i) an environmental management register; and
 - (ii) a contaminated land register;
 - (e) for chapter 12, part 1—
 - (i) guidelines made by the Minister; and
 - (ii) guidelines made by the chief executive;
 - (f) for chapter 12, part 3A—auditors;
 - (g) other documents or information prescribed under regulation.

- ‘(2) A reference to a document in subsection (1) includes a reference to any amendment of the document made under this Act.

‘541 Keeping of registers

- ‘(1) This section applies if the chief executive or administering authority (the *relevant entity*) is required to keep a register under section 540 or 540A.
- ‘(2) If the relevant entity considers it impracticable to include a document in a register, it may include details of the document in the register instead of the document.
- ‘(3) However, if the register only includes details of a document—
- (a) the relevant entity must keep the document open for public inspection in the way required of a register under section 542; and
 - (b) section 542 applies to the document as if it were included in a register.
- ‘(4) If particulars of any land are recorded in the environmental management register or contaminated land register, they must include the real property description of the land.
- ‘(5) Subject to subsections (2) to (4), the relevant entity may keep a register in the way it considers appropriate, including, for example, on a website.’.

48 Amendment of s 542 (Inspection of register)

- (1) Section 542(1) and (2), ‘administering authority’—
omit, insert—
‘relevant entity’.
- (2) Section 542(1), ‘section 540(1)’—
omit, insert—
‘section 540(1) or 540A(1)’.
- (3) Section 542(1)(a), ‘agency’s’—

omit, insert—

‘entity’s’.

- (4) Section 542(3), ‘Also, the administering authority’—

omit, insert—

‘The chief executive’.

49 Amendment of s 543 (Appropriate fee for copies)

- (1) Section 543(2)(b)—

renumber as section 543(2)(c).

- (2) Section 543(2)(a)—

omit, insert—

‘(a) for the chief executive—the amount the chief executive decides is reasonable;

(b) otherwise—the amount the administering authority decides is reasonable;’.

50 Replacement of s 546 (Annual reports)

Section 546—

omit, insert—

‘546 Chief executive may require administering authority to report

‘(1) The chief executive may, by written notice, require an administering authority to give to the chief executive a report on its administration of this Act.

‘(2) Subsection (1) does not apply if the chief executive is the administering authority.

‘(3) The written notice must state—

(a) the information to be included in the report; and

(b) when the report is to be given to the chief executive.

- ‘(4) If an administering authority is given a notice under subsection (1), the authority must comply with the notice.

‘546A Chief executive to provide annual report

- ‘(1) Within 4 months after the end of each financial year, the chief executive must give to the Minister a report on the administration of this Act for the year.
- ‘(2) The chief executive’s report must include a statement about requests received by the Minister to prepare environmental protection policies and a brief statement of the reasons for refusing any request.
- ‘(3) An administering authority’s report given to the chief executive under section 546 for the preceding financial year must be attached to the chief executive’s report.
- ‘(4) The Minister must table a copy of the chief executive’s report in the Legislative Assembly within 14 sitting days after receiving it.’.

51 Replacement of ch 12, pt 1 (Approval of codes of practice and standard environmental conditions)

Chapter 12, part 1—

omit, insert—

‘Part 1 Guidelines

‘548 ~~Minister may make guidelines~~

‘548 Chief executive may make guidelines for administering authorities

- ‘(1) The ~~Minister~~ chief executive may make guidelines about ~~any matter the Minister considers appropriate for the administration of this Act~~ how an administering authority complies with a regulatory requirement.

(2) If the chief executive makes a guideline about how an administering authority complies with a regulatory requirement, the administering authority must follow the guidelines in complying with the regulatory requirement.

~~(23)~~ Before making a guideline, the ~~Minister~~ chief executive must consult with the persons or entities the ~~Minister~~ chief executive considers appropriate.

~~(34)~~ If a guideline is made, the ~~Minister~~ chief executive must notify the making of the guideline in the gazette.

549 ~~Chief executive may make guidelines~~

549 Chief executive may make guidelines to inform persons

(1) The chief executive may make guidelines to inform persons about—

(a) matters to be addressed in a draft terms of reference for an EIS submitted under section 41; or

(b) matters to be considered in making standard conditions under chapter 5A, part 2; or

(c) ~~for considering, under chapter 12, part 3, whether a person is a suitably qualified person to perform a function~~ the qualifications and experience that may be relevant to suitably qualified persons performing the function ~~regulatory functions~~; or

(d) another matter the chief executive considers appropriate for the administration of this Act.

(2) Before making a guideline, the chief executive must consult with the persons or entities the chief executive considers appropriate.

(3) If a guideline is made, the chief executive must notify the making of the guideline in the gazette.’

52 Omission of ch 12, pt 2, divs 1 and 2, hdgs

Chapter 12, part 2, divisions 1 and 2, headings—
omit.

53 Omission of s 551 (Definitions for pt 2)

Section 551—
omit.

54 Replacement of s 552 (What is the *application date* for application or TEP submission)

Section 552—
omit, insert—

‘552 When documents are served

- ‘(1) Despite the *Acts Interpretation Act 1954*, section 39A(1), if this Act requires or permits a document to be served by post, service—
- (a) may be effected by properly addressing, prepaying and posting the document as a letter; and
 - (b) is taken to have been effected at the time at which the letter is posted.
- ‘(2) Subsection (1) applies whether the expression ‘deliver’, ‘give’, ‘notify’, ‘send’ or ‘serve’ or another expression is used.’.

55 Amendment of s 554 (Electronic notices about applications and submissions)

Section 554—
insert—

- ‘(4) In this section—
applicant, for a TEP submission, means the person or public authority that made the submission.

TEP submission means a submission for approval of, or an approval of an amendment to, a transitional environmental program.’.

56 Omission of ss 555–557

Sections 555 to 557—

omit.

57 Omission of ch 12, pt 2, div 3

Chapter 12, part 2, division 3—

omit.

58 Insertion of new ch 12, pts 3–3A

Before chapter 12, part 4—

insert—

‘Part 3 Suitably qualified persons

‘564 Definitions for pt 3

‘In this part—

regulatory function means—

- (a) conducting a site investigation under chapter 7, part 8, division 3; or
- (b) preparing a validation report under chapter 7, part 8, division 4; or
- (c) preparing a draft site management plan or draft amendment of a site management plan under chapter 7, part 8, division 5; or
- (d) another function prescribed under a regulation.

suitably qualified person, for performing a regulatory function, means a person who—

- (a) has qualifications and experience relevant to performing the function; and
- (b) if a regulation prescribes an organisation for this paragraph—is a member of ~~an organisation prescribed under a regulation~~the organisation.

‘565 Only suitably qualified person can perform regulatory functions

‘A regulatory function may only be performed by a suitably qualified person.

Note—

Under section 549(1)(c), the chief executive may make guidelines to inform persons about the qualifications and experience that may be relevant to suitably qualified person performing a regulatory function.

‘566 Declaration to accompany document

- ‘(1) This section applies if a document about a regulatory function is prepared by a suitably qualified person and submitted to the administering authority.
- ‘(2) The document must be accompanied by a **statutory** declaration by the person stating all of the following—
 - (a) the person’s qualifications and experience relevant to the function;
 - (b) that the person has not knowingly included false, misleading or incomplete information in the document;
 - (c) that the person has not knowingly failed to reveal any relevant information or document to the administering authority~~;~~.
- ~~‘(3) The declaration must also certify that—~~
 - ~~(a)~~ (d) the document addresses the relevant matters for the function and is factually correct~~;~~;
 - ~~(b)~~ (e) the opinions expressed in ~~it~~the document are honestly and reasonably held.

‘Part 3A Auditors

‘Division 1 Preliminary

‘567 Who is an *auditor*

‘An individual is an *auditor* if the individual is approved as an auditor under division 2.

‘568 Auditor’s functions

‘An auditor may, subject to the terms of an approval under division 2—

- (a) conduct environmental audits and prepare environmental reports about audits under chapter 7, part 2, division 2; and
- (b) evaluate site investigation reports, validation reports, draft site management plans and draft amendments of site management plans prepared under chapter 7, part 8 against criteria prescribed under a regulation (the *prescribed criteria*) and—
 - (i) if the report or plan does not comply with the prescribed criteria—prepare a report about the evaluation; or
 - (ii) if the report or plan complies with the prescribed criteria—provide written certification that it complies with the criteria; and
- (c) audit or evaluate another matter or thing prescribed under a regulation and prepare a report or written certification about the audit or evaluation.

‘Division 2 Obtaining approval as auditor

‘569 Who may apply

‘An individual may apply to the chief executive for approval as an auditor.

‘570 Requirements for application

‘An application for approval as an auditor must—

- (a) be made in the approved form; and
- (b) state the functions proposed to be performed by the applicant; and
- (c) be accompanied by the prescribed fee; and
- (d) state whether the applicant holds professional indemnity insurance; and
- (e) state whether the applicant has been convicted of an offence under this Act; and
- (f) include other information required to be included in the application under a guideline—
 - (i) made by the chief executive; and
 - (ii) prescribed under a regulation.

‘571 Deciding application

‘(1) The chief executive must, within 30 business days after receiving the application, decide to—

- (a) approve the application; or
- (b) approve the application subject to conditions; or
- (c) refuse the application.

‘(2) Without limiting subsection (1)(b), an approval may be subject to a condition that limits the functions the auditor may perform to a stated type of function.

‘572 Criteria for decision

‘In deciding the application, the chief executive must consider—

- (a) the application; and
- (b) whether the applicant—
 - (i) has qualifications and experience relevant to performing the functions of an auditor; and
 - (ii) is a member of an organisation prescribed under a regulation; and
 - (iii) has demonstrated knowledge of—
 - (A) the Act; and
 - (B) another Act the chief executive considers is relevant to performing the functions of an auditor; and
 - (iv) has professional indemnity insurance; and
 - (v) has committed an offence under this Act; and
 - (vi) has committed an offence under another Act involving misleading or fraudulent conduct; and
 - (vii) has been appointed or approved as an auditor under a corresponding law.

‘573 Notice of decision

‘(1) The chief executive must, within 10 business days after the decision is made, give the applicant written notice of the decision.

‘(2) The notice must—

- (a) if the decision is to approve the application—be accompanied by a certificate of approval; and
- (b) if the decision is to refuse the application—state the reasons for the decision.

‘574 Term of approval

‘An approval remains in force for the term stated in the approval.

‘Division 3 Performance of auditor’s functions

‘574A Who may perform auditor’s functions

- ‘(1) A function mentioned in section 568 may be performed only by—
- (a) the administering authority; or
 - (b) an auditor whose approval under division 2 allows the auditor to perform the function.
- ‘(2) Despite subsection (1)(b), a person must not perform a function if the person has a direct or indirect financial or other interest in a matter or thing relevant to the exercise of the function.

Maximum penalty for subsection (2)—100 penalty units.

‘574B Auditor must comply with approval

‘An auditor must comply with the conditions of any approval given under section 571(1)(b), unless the auditor has a reasonable excuse.

Maximum penalty—100 penalty units.

‘574C Report and declaration to accompany document

- ‘(1) This section applies if—
- (a) an auditor prepares a report or certification about an audit or evaluation; and
 - (b) a document about the audit or evaluation must be submitted to the administering authority.

- ‘(2) The document must be accompanied by a copy of the report or certification and a ~~statutory~~ declaration by the auditor stating the following—
- (a) the person’s qualifications and experience relevant to the audit or evaluation;
 - (b) that the person has not knowingly included false, misleading or incomplete information in the report or certification;
 - (c) that the person has not knowingly failed to reveal any relevant information or document to the administering authority.
- ‘(3) The declaration must also ~~certify~~ state that—
- (a) the report or certification addresses the relevant matters for the audit or evaluation and is factually correct; and
 - (b) the opinions expressed in it are honestly and reasonably held.

‘Division 4 Suspension or cancellation of approval

‘574D Grounds for suspension or cancellation

‘Each of the following is a ground for suspending or cancelling an auditor’s approval—

- (a) the auditor has contravened a condition of the approval;
- (b) the auditor has not complied with a code of conduct for auditors made by the chief executive and prescribed under a regulation;
- (c) the auditor has been convicted of an offence under this Act;
- (d) the auditor has been convicted of an offence under another Act involving misleading or fraudulent conduct;

- (e) the auditor does not have the necessary expertise or experience to perform the auditor's functions;
- (f) the audits conducted by the auditor have not been conducted honestly, fairly or diligently.

'574E Show cause notice

- '(1) If the chief executive believes a ground exists to suspend or cancel the approval, the chief executive must give the auditor a written notice under this section (a *show cause notice*).
- '(2) The show cause notice must state the following—
 - (a) the action the chief executive proposes taking under this division (the *proposed action*);
 - (b) the grounds for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) if the proposed action is suspension of the approval—the proposed suspension period;
 - (e) that the auditor may, within a stated period (the *show cause period*), make written representations to the chief executive to show why the proposed action should not be taken.
- '(3) The show cause period must end at least 15 business days after the auditor is given the show cause notice.

'574F Representations about show cause notice

- '(1) The auditor may make written representations about the show cause notice to the chief executive in the show cause period.
- '(2) The chief executive must consider all representations made under subsection (1).

‘574G Suspension or cancellation

- ‘(1) After considering any representations, the chief executive may—
 - (a) if the proposed action was to suspend the approval—suspend the approval for not longer than the proposed suspension period; or
 - (b) if the proposed action was to cancel the approval—cancel the approval or suspend it for a period.
- ‘(2) If the chief executive decides to take action under subsection (1), the chief executive must give an information notice about the decision to the auditor.
- ‘(3) The decision takes effect on the later of the following—
 - (a) the day the information notice is given to the auditor;
 - (b) the day stated in the information notice for that purpose.

‘Division 5 Complaints

‘574H Who may make a complaint

- ‘(1) A person may make a complaint to the chief executive that a ground exists under section 574D for suspending or cancelling an auditor’s approval.
- ‘(2) The complaint must be written and state the particulars on which it is based.

‘574I What happens after a complaint is made

- ‘(1) As soon as practicable after the chief executive receives a complaint, the chief executive must consider and investigate the complaint.
- ‘(2) After considering and investigating the complaint, the chief executive must decide—

- (a) to accept the complaint for action under division 4; or
- (b) to not take action on the complaint under division 4.

‘574J Notice of decision

- ‘(1) Within 10 business days after making a decision under section 574I(2), the chief executive must give written notice of the decision to the complainant.
- ‘(2) If the decision is not to take action under division 4, the notice given to the complainant must state the reasons for the decision.

‘Division 6 Miscellaneous

‘574K Obligation to keep certificate of approval

‘A person given a certificate of approval under section 573(2)(a) must keep the certificate for the term of the approval, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘574L Impersonation of auditor

‘A person must not pretend to be an auditor.

Maximum penalty—100 penalty units.

‘574M False or misleading information about reports or certification

- ‘(1) An auditor must not, in performing the auditor’s functions, make a report or provide a certification that the auditor knows is false or misleading in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.

- ‘(2) It is enough for a complaint for an offence against subsection (1) to state the report or certification was ‘false or misleading’ to the auditor’s knowledge, without specifying which.’.

59 Amendment of s 580 (Regulation-making power)

- (1) Section 580(2)(n) and (o)—
omit.
- (2) Section 580(2)(p) to (v)—
renumber as section 580(2)(n) to (s).

60 Insertion of new ch 13, pt 18

After chapter 13, part 17—

insert—

**‘Part 18 Transitional provisions for
Environmental Protection
(Greentape Reduction) and
Other Legislation Amendment
Act 2012**

‘Division 1 Preliminary

‘676 Definitions for pt 18

‘In this part—

amending Act means the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

commencement means the commencement of this section.

former, for a provision mentioned in this part, means the provision to which the reference relates is a provision of the unamended Act.

UDA development approval see the ULDA Act, schedule.

UDA development condition see the ULDA Act, section 55(4)(b).

ULDA Act means the *Urban Land Development Authority Act 2007*.

unamended Act means this Act as in force from time to time before the commencement.

‘Division 2 Provisions for chapter 4 activities

‘677 Continuing effect of existing development permit for chapter 4 activity as environmental authority

- ‘(1) This section applies if, immediately before the commencement, a development permit for a chapter 4 activity is in effect.
- ‘(2) From the commencement—
- (a) if the chapter 4 activity the subject of the permit is a mobile and temporary environmentally relevant activity—
 - (i) the permit becomes an environmental authority for a prescribed ERA; and
 - (ii) the development conditions of the permit become conditions of the environmental authority, as standard conditions; and
 - (b) if the chapter 4 activity the subject of the permit is an activity other than a mobile and temporary environmentally relevant activity—
 - (i) the development conditions of the permit become an environmental authority for a prescribed ERA; and
 - (ii) the development conditions of the permit become conditions of the environmental authority; and

- (c) the holder of the registration certificate for the activity the subject of the permit becomes the holder of the environmental authority.
- ‘(3) The environmental authority is taken to have had effect on the day the development permit had effect under the Planning Act.
- ‘(4) The anniversary day for the environmental authority is the anniversary of the day the development permit was given.

‘678 Existing development application for chapter 4 activity

- ‘(1) This section applies for a development application for a chapter 4 activity made, but not decided, before the commencement.
- ‘(2) From the commencement—
 - (a) section 115 does not apply to the application; and
 - (b) former chapter 4, part 1 continues to apply to the application as if the amending Act had not been enacted; and
 - (c) if a development permit is given for the application, the development permit is taken to be one to which section 677 applies.

‘679 Continuing effect of existing UDA development approval for chapter 4 activity as environmental authority

- ‘(1) This section applies if, immediately before the commencement—
 - (a) a UDA development approval for a chapter 4 activity is in effect; and
 - (b) UDA development conditions (the *relevant conditions*) of the UDA development approval nominate the administering authority to be the nominated assessing

authority for the conditions under the ULDA Act, section 58(a).

- ‘(2) From the commencement—
- (a) the relevant conditions of the UDA development approval—
 - (i) become an environmental authority for a prescribed ERA; and
 - (ii) become conditions of the environmental authority; and
 - (b) the holder of the registration certificate for the activity the subject of the UDA development approval becomes the holder of the environmental authority; and
 - (c) the carrying out of the prescribed ERA under the environmental authority is not a UDA development offence.
- ‘(3) The environmental authority is taken to have had effect on the day the UDA development approval had effect under the ULDA Act.
- ‘(4) The anniversary day for the environmental authority is the anniversary of the day the UDA development approval was given.
- ‘(5) In this section—
- UDA development offence* see the ULDA Act, schedule.

‘680 Continuing effect of existing registration certificate as environmental authority

- ‘(1) This section applies if, immediately before the commencement—
- (a) a registration certificate is in effect; and
 - (b) a code of environmental compliance applied to the chapter 4 activity stated in the certificate.
- ‘(2) From the commencement—

- (a) the registration certificate becomes an environmental authority for a prescribed ERA; and
 - (b) the standard environmental conditions of the code of environmental compliance become conditions of the authority, as standard conditions; and
 - (c) the registered operator for the registration certificate becomes the holder of the environmental authority.
- ‘(3) The environmental authority is taken to have had effect on the day the registration certificate had effect under the unamended Act.
- ‘(4) The anniversary day for the environmental authority is the anniversary day for the registration certificate.

‘681 Existing application for registration to carry out chapter 4 activity

- ‘(1) This section applies for an application for registration to carry out a chapter 4 activity made, but not decided, under former chapter 4, part 2 before the commencement.
- ‘(2) From the commencement, former chapter 4, part 2 continues to apply to the application as if the amending Act had not been enacted.
- ‘(3) Subsection (4) applies if—
- (a) a registration certificate is given for the application; and
 - (b) immediately before the commencement, a code of environmental compliance applied to the chapter 4 activity stated in the certificate.
- ‘(4) The registration certificate is taken to be one to which section 680 applies.

‘684 Existing progressive certification

- ‘(1) This section applies if the administering authority has, under former chapter 5, part 9A given a progressive certification for a particular area within a relevant mining tenement for a level 1 mining project.
- ‘(2) From the commencement—
- (a) the certification becomes a progressive certification for the mining tenure for chapter 5A, part 6; and
 - (b) the area the subject of the progressive certification is a certified rehabilitated area for the mining tenure for chapter 5A, part 6.

‘685 Existing application for progressive certification

- ‘(1) This section applies if an application for progressive certification is made, but not decided, under former chapter 5, part 9A before the commencement.
- ‘(2) From the commencement—
- (a) the application becomes a progressive certification application under section 318ZC; and
 - (b) chapter 5A, part 6 applies to the application.

‘686 Existing surrender notice

- ‘(1) This section applies if the administering authority has given a surrender notice to the holder of an environmental authority (mining activities) under former section 271(2) before the commencement.
- ‘(2) From the commencement, the surrender notice becomes a surrender notice under section 258.

‘687 Existing audit notices

- ‘(1) This section applies if the administering authority has given the holder of an environmental authority (mining activities) an

audit notice under former section 280(1) before the commencement.

- ‘(2) From the commencement, the audit notice becomes an audit notice under section 322.

‘688 Existing appointment of auditor

- ‘(1) This section applies if an individual is appointed as an auditor under former section 285(1) before the commencement and the term of the appointment has not ended.
- ‘(2) On the commencement, the individual holds approval as an auditor under chapter 12, part 3A, division 2.

‘689 Existing notice of proposed amendment, cancellation or suspension of environmental authority

- ‘(1) This section applies if the administering authority has given the holder of an environmental authority (mining activities) notice of a proposed action under former section 295(1) before the commencement.
- ‘(2) From the commencement—
- (a) if the proposed action is to amend the environmental authority—
- (i) the notice becomes a notice given under section 217; and
- (ii) chapter 5, part 6, divisions 2 and 3 apply for the notice; or
- (b) if the proposed action is to suspend or cancel the environmental authority—
- (i) the notice becomes a notice given under section 280; and
- (ii) chapter 5, part 11, divisions 2 and 3 apply for the notice.

‘Division 4 Provisions for other environmental authorities

‘690 Continuing effect of existing environmental authority (chapter 5A activities) as environmental authority

- ‘(1) This section applies if, immediately before the commencement, an environmental authority (chapter 5A activities) is in effect.
- ‘(2) From the commencement, the environmental authority (chapter 5A activities) becomes an environmental authority for a resource activity.
- ‘(3) The environmental authority is taken to have had effect on the day the environmental authority (chapter 5A activities) had effect under the unamended Act.
- ‘(4) The anniversary day for the environmental authority is the anniversary day for the environmental authority (chapter 5A activities).

‘691 Existing application for environmental authority (chapter 5A activities)

- ‘(1) This section applies to the following applications made, but not decided, before the commencement—
 - (a) an application for an environmental authority (chapter 5A activities) made under former chapter 5A; and
 - (b) an application to amend, surrender or transfer an environmental authority (chapter 5A activities).
- ‘(2) From the commencement—
 - (a) processing of the application and all matters incidental to the processing must proceed as if the amending Act had not been enacted; and
 - (b) an environmental authority granted, amended or transferred is taken to be an environmental authority to which section 690 applies.

‘692 Existing surrender notice

- ‘(1) This section applies if the administering authority has given a surrender notice to the holder of an environmental authority (chapter 5A activities) under former section 312B(2) before the commencement.
- ‘(2) From the commencement, the surrender notice becomes a surrender notice under section 258.

‘693 Existing notice of proposed amendment, cancellation or suspension of environmental authority

- ‘(1) This section applies if the administering authority has given the holder of an environmental authority (chapter 5A activities) notice of a proposed action under former section 312H(1) before the commencement.
- ‘(2) From the commencement—
 - (a) if the proposed action is to amend the environmental authority—
 - (i) the notice becomes a notice given under section 217; and
 - (ii) chapter 5, part 6, divisions 2 and 3 apply for the notice; or
 - (b) if the proposed action is to suspend or cancel the environmental authority—
 - (i) the notice becomes a notice given under section 280; and
 - (ii) chapter 5, part 11, divisions 2 and 3 apply for the notice.

**‘Division 5 Transitional authorities for
environmentally relevant activities**

‘694 Definition for div 5

‘In this division—

transitional authority means—

- (a) an environmental authority that, under section 682 or 690, is taken to be an environmental authority under chapter 5; or
- (b) a development permit or development conditions of a development permit that, under section 677, are taken to be an environmental authority under chapter 5; or
- (c) UDA development conditions of a UDA development approval that, under section 679, are taken to be an environmental authority under chapter 5; or
- (d) a registration certificate that, under section 680, is taken to be an environmental authority under chapter 5.

**‘695 Application to convert conditions of transitional
authority to standard conditions**

‘(1) The holder of a transitional authority may apply (a *conversion application*) to the administering authority to convert the conditions of the transitional authority to the standard conditions for the authority or relevant activity.

‘(2) Subsection (1) applies despite chapter 5, part 7.

‘696 Requirements for conversion application

‘A conversion application must be—

- (a) in the approved form; and
- (b) accompanied by the fee prescribed under a regulation.

‘697 Deciding conversion application

- ‘(1) The administering authority must, within 10 business days after receiving the application, decide whether to—
 - (a) approve the application; or
 - (b) refuse the application.
- ‘(2) In deciding the application, the administering authority must consider the criteria mentioned in section 175(2).
- ‘(3) Despite subsection (1), the administering authority may only approve an application if—
 - (a) eligibility criteria are in effect for the relevant activity for the authority; and
 - (b) the relevant activity complies with the eligibility criteria.

‘698 Steps after making decision

- ‘(1) If the administering authority decides to approve the application, it must, within 10 business days—
 - (a) amend the environmental authority to give effect to the conversion; and
 - (b) record particulars of the amendment in the relevant register; and
 - (c) issue the amended environmental authority to the applicant.
- ‘(2) If the administering authority decides to refuse the application, it must, within 10 business days after the decision is made, give the applicant an information notice about the decision.

‘Division 6 Financial assurance

‘699 Existing financial assurance requirement

- ‘(1) This section applies if, before the commencement, the administering authority required—
- (a) the giving of financial assurance under former section 312O(2) or 312P(1)(a); or
 - (b) a change to financial assurance under former section 312P(1)(b).
- ‘(2) From the commencement, the requirement continues to apply.
- ‘(3) The holder of an environmental authority to which a requirement applies must not carry out the relevant activity under the environmental authority until the financial assurance is given.

Maximum penalty—1665 penalty units.

‘Division 7 Provisions about codes of practice

‘700 Existing codes of practice

- ‘(1) This section applies for a code of practice (an *existing code of practice*) approved under former section 548 before the commencement.
- ‘(2) On the commencement, the existing code of practice becomes a code of practice under section 318E.
- ‘(3) However, despite section 318E(4), an existing code of practice expires 2 years after the commencement.

‘Division 8 Provisions about environmental management plans

‘701 Conditions about environmental management plans for particular environmental authorities

- ‘(1) This section applies if—
- (a) a following environmental authority (the *old authority*) becomes, under section 682 or 690, an environmental authority under chapter 5 (the *new authority*)—
 - (i) an environmental authority (exploration);
 - (ii) an environmental authority (mineral development);
 - (iii) an environmental authority (mining lease);
 - (iv) an environmental authority (prospecting);
 - (v) an environmental authority (mining claim);
 - (vi) an environmental authority (chapter 5A activity);
and
 - (b) either—
 - (i) the old authority had a condition requiring compliance with an environmental management plan; or
 - (ii) an environmental management plan for the old authority states environmental protection commitments for rehabilitation of the land to be disturbed under each relevant resource tenement.
- ‘(2) The administering authority may amend the new authority to impose conditions consistent with the environmental management plan.
- ‘(3) However, the amendment may only be made if—
- (a) the procedure under chapter 5, part 6, division 2 is followed or the holder of the authority has agreed in writing to the amendment; and

- (b) the amendment is made within the later of the following periods—
 - (i) 2 years after the commencement; or
 - (ii) 2 years after the environmental authority takes effect.
- ‘(4) Section 221 applies to the amendment as if the amendment was made under chapter 5, part 6.
- ‘(5) This section does not apply if a conversion application is made for the environmental authority under section 695.

‘Division 9 Provisions about plans of operations

‘702 Existing plan of operations

- ‘(1) This section applies for a plan of operations for an environmental authority (mining lease) submitted, or taken to have been submitted, to the administering authority under former section 233 before the commencement.
- ‘(2) On the commencement, the plan of operations becomes a plan of operations under section 287.
- ‘(3) The plan of operations is taken to have been submitted on the day it was submitted under the unamended Act.

‘703 Plan of operations for environmental authority for petroleum activity that relates to petroleum lease

- ‘(1) This section applies for an environmental authority for a petroleum activity authorised under a petroleum lease if the authority—
 - (a) was issued before the commencement; and
 - (b) chapter 5, part 12, division 1 applies to the authority.

- ‘(2) The holder of the authority must, within 6 months after the commencement, give the administering authority a plan of operations for all relevant activities.
- Maximum penalty—100 penalty units.
- ‘(3) Section 287 does not apply to the holder of the authority until the earlier of the following—
- (a) the day a plan of operations is given to the administering authority for all relevant activities;
 - (b) the day that is 6 months after the commencement.
- ‘(4) If a plan of operations for the environmental authority is given to the administering authority, the administering authority may amend the environmental authority to remove any conditions that relate to matters included in the plan.
- ‘(5) However, an amendment mentioned in subsection (4) may only be made if—
- (a) the procedure under chapter 5, part 6, division 2 is followed or the holder of the authority has agreed in writing to the amendment; and
 - (b) the amendment is made within 12 months after the commencement.
- ‘(6) Section 221 applies to the amendment as if the amendment was made under chapter 5, part 6.

‘Division 10 Miscellaneous provisions

‘704 Existing application to change anniversary day

- ‘(1) This section applies if—
- (a) an application to change the anniversary day for a registration certificate or environmental authority is made, but not decided, under former section 318A before the commencement; and

- (b) under section 680, 682 or 690, the registration certificate or environmental authority becomes an environmental authority.

‘(2) From the commencement—

- (a) the application becomes an application under section 310; and
- (b) chapter 5, part 12, division 3, subdivision 2 applies to the application.

‘705 Particular persons taken to be registered suitable operator

‘(1) This section applies to—

- (a) a person who holds a registration certificate, given under former section 73F before or after the commencement, that has not been cancelled; or
- (b) the holder of an environmental authority issued under former chapter 5 or 5A before or after the commencement.

‘(2) On the commencement, the person becomes a registered suitable operator.

‘(3) Subsection (4) applies if, immediately before the commencement, a registration certificate mentioned in subsection (1)(a) was suspended.

‘(4) The suspension becomes a suspension of the registration of the holder of the registration certificate as a registered suitable operator under section 318N.

‘706 Effect of proposed standard environmental conditions prepared before commencement of amending Act

‘(1) This section applies if—

- (a) a draft code of environmental compliance (a *draft code*) was prepared under the unamended Act before the commencement; and

- (b) the draft code includes proposed standard environmental conditions (the *proposed conditions*); and
 - (c) the draft code is not approved or made under the unamended Act before the commencement.
- ‘(2) The chief executive may, under section 318D(1), make the proposed conditions, with or without changes, as standard conditions for an environmentally relevant activity or environmental authority, without complying with section 318C if—
- (a) public consultation was carried out for the draft code; and
 - (b) the public consultation was carried out in a way that is substantially similar to the requirements under section 318C.

‘707 Deferment of application of s 426 to newly prescribed ERAs

- ‘(1) This section applies to a person carrying out an activity at premises if—
- (a) the activity is prescribed for the first time as an environmentally relevant activity under section 19 (the *relevant change*); and
 - (b) the activity was carried out at the premises before the relevant change; and
 - (c) the activity continues to be carried out at the premises after the relevant change.
- ‘(2) Section 426 does not apply to the person in carrying out the activity at the premises until 1 year after the relevant change.

‘708 References to chapter 4 activity, development approval or registration certificate

- ‘(1) A reference in an Act to a chapter 4 activity may, if the context permits, be taken to be a reference to a prescribed ERA.

‘(2) A reference in an Act to a development approval or registration certificate that is in effect for a chapter 4 activity may, if the context permits, be taken to be a reference to the environmental authority under section 677 or 680.

‘709 References to former chapters 5 and 5A

‘(1) A reference in an Act or a document to former chapter 5 or 5A may, if the context permits, be taken to be a reference to chapter 5.

‘~~(2)~~ A reference in an Act or a document to a particular provision of former chapter 5 or 5A (the repealed provision) may, if the context permits, be taken to be a reference to the provision of chapter 5 that corresponds, or substantially corresponds, to the repealed provision.

‘710 References to former terms

‘~~(2)~~ A reference in an Act or a document to a ~~particular provision of former chapter 5 or 5A term~~ (the ~~repealed provision~~ ~~former term~~) stated in column 1 of the following table may, if the context permits, be taken to be a reference to the term stated opposite the provision-former term in column 2 of chapter 5 that corresponds, or substantially corresponds, to the repealed provision. ~~table—~~

Table

	Column 1	Column 2
1	chapter 5A activity	resource activity other than a mining activity
2	chapter 5A activity project	ERA project for a resource activity other than a mining activity
3	coal seam gas environmental authority	environmental authority for a CSG activity

	Column 1	Column 2
4	code compliant conditions	standard conditions
5	code compliant application	standard application
6	code compliant authority	environmental authority for an eligible ERA subject to the standard conditions
7	environmental authority (chapter 5A activities)	environmental authority for a resource activity, other than a mining activity
8	environmental authority (exploration)	environmental authority for a mining activity relating to an exploration permit
9	environmental authority (mineral development)	environmental authority for a mining activity relating to a mineral development licence
10	environmental authority (mining activities)	environmental authority for a mining activity
11	environmental authority (mining claim)	environmental authority for a mining activity relating to a mining claim
12	environmental authority (mining lease)	environmental authority for a mining activity relating to a mining lease
13	environmental authority (prospecting)	prescribed conditions for a mining activity authorised under a prospecting permit
14	GHG residual risks requirement	residual risks requirement for a GHG storage activity
15	non-code compliant application	variation application

	Column 1	Column 2
16	non-code compliant authority	environmental authority for an eligible ERA subject to varied standard conditions
17	mining project	resource project for a mining activity
18	level 1 mining project	resource project for a mining activity that is an ineligible ERA
19	level 1 chapter 5A activity	resource activity, other than a mining activity, that is an ineligible ERA
20	level 2 mining project	resource project for a mining activity that is an eligible ERA
21	level 2 chapter 5A activity	resource activity, other than a mining activity, that is an eligible ERA
22	standard environmental conditions	standard conditions

(2) In this section—
eligible ERA see section 112.
ineligible ERA see section 112.

61 Amendment of sch 2 (Original decisions)

- (1) Schedule 2, part 1, divisions 3, 3A and 4—
omit, insert—

‘Division 3 Decisions under chapter 5

Section	Description of decision
128(2)	decision to give notice stating that an application for an environmental authority for a resource activity is not a properly made application
147(3)	decision to refuse extension to the information response period for an application or amendment application for an environmental authority for a resource activity
152(3)	decision to require another way of giving or publishing application notice
155(a)	fixing submission period for an application or amendment application for an environmental authority for a resource activity, other than a mining activity
159(2) and (3)	decision not to allow application or amendment application for an environmental authority to proceed
159(5)(b)	fixing substituted way to give or publish application notice and fixing new submission period
171(2)	imposition of a condition on an environmental authority for a resource activity, other than a mining activity relating to a mining lease, if the condition is not the same, or to the same effect as, a condition agreed to by the applicant
172(2)(a)	decision to approve site-specific application for an environmental authority for a resource activity that is a petroleum activity
172(2)(a)	imposition of a condition on an environmental authority for a resource activity, other than a mining activity relating to a mining lease, if the condition is not the same, or to the same effect as, a condition agreed to by the applicant

Section	Description of decision
172(2)(b)	decision to refuse site-specific application or amendment application for an environmental authority for a resource activity, other than a mining activity relating to a mining lease, if the decision is not made under section 173(1)
219(1)	amendment decision for environmental authority for a resource activity
228(1)	assessment level decision for amendment application for an environmental authority for a resource activity, if the decision is that the proposed amendment is a major amendment
230(2)	decision that chapter 5, part 4 applies to amendment application for an environmental authority for a resource activity, other than a mining activity
233(2)(b)(ii)	decision to require another way of publishing application notice
234(2)	fixing submission period for amendment application for an environmental authority for a resource activity
240(1)	refusal of amendment application for an environmental authority for a resource activity
240(1) and (3)	decision to approve amendment application for an environmental authority for a resource activity subject to other amendments to the conditions of the authority
247(1)(b)	refusal of amalgamation application for environmental authorities for resource activities
258(2)	decision to give surrender notice
258(3)(a)	fixing of period for making surrender application
266(1)(b)	refusal of surrender application for an environmental authority for a resource activity
271(2)	requirement to make residual risk payment

Section	Description of decision
274(2)	decision to give rehabilitation direction
282(1)	proposed action decision for an environmental authority for a resource activity
295(1)	decision about amount and form of financial assurance for an environmental authority for a resource activity
301(1)	decision to make claim on or realise financial assurance for an environmental authority for a resource activity
305(1)	refusal of application to amend the amount or form of financial assurance or discharge financial assurance, for an environmental authority for a resource activity
306(2)	decision to require the holder of an environmental authority for a resource activity to change the amount of financial assurance
311(1)	decision not to change anniversary day for an environmental authority for a resource activity
314(2)	decision to require holder of an environmental authority for a resource activity to make a site-specific application for a new environmental authority or an amendment application

‘Division 4 Decisions under chapter 5A

Section	Description of decision
318ZH	refusal of progressive certification
318ZL(1)	requirement to make residual risk payment

‘Division 5 Decisions under chapter 7

Section	Description of decision
322(1)	decision to give audit notice for a resource activity
324(1)(d)	fixing of period for conducting or commissioning environmental audit and giving environmental report for a resource activity
326(1)	decision to conduct or commission environmental audit or prepare environmental report for a resource activity
326B(2)	decision to give investigation notice for a resource activity
326C(1)(c)	fixing of period for conducting or commissioning environmental investigation and giving environmental report for a resource activity
326G(4)(b)	decision to refuse to accept environmental report about an environmental investigation for a resource activity
326I(2)	decision to require another environmental investigation and report for a resource activity
326I(4)(b)	fixing of period for conducting or commissioning environmental investigation and giving environmental report for a resource activity

‘Division 6 Decisions under chapter 13, part 18

Section	Description of decision
697(1)(b)	decision to refuse conversion application for an environmental authority for a resource activity’.

(2) Schedule 2, part 2, divisions 1A, 2, 4 and 5—

omit, insert—

‘Division 2 Decisions under chapter 5

Section	Description of decision
128(2)	decision to give notice stating that an application for an environmental authority for a prescribed ERA is not a properly made application
147(3)	decision to refuse extension to the information response period for an application or amendment application for an environmental authority for a prescribed ERA
171(2)	imposition of a condition on an environmental authority for a prescribed ERA if the condition is not the same, or to the same effect, as a condition agreed to by the applicant
172(2)(a)	imposition of a condition on an environmental authority for a prescribed ERA if the condition is not the same, or to the same effect, as a condition agreed to by the applicant
172(2)(b)	decision to refuse site-specific application or amendment application for an environmental authority for a prescribed ERA, if the decision is not made under section 173(1)
214(2)	amendment of environmental authority
219(1)	amendment decision for an environmental authority for a prescribed ERA
228(1)	assessment level decision for an amendment application for an environmental authority for a prescribed ERA, if the decision is that the proposed amendment is a major amendment

Section	Description of decision
240(1)	refusal of amendment application for an environmental authority for a prescribed ERA
240(1) and (3)	decision to approve amendment application for an environmental authority for a prescribed ERA subject to other amendments to the conditions of the authority
247(1)(b)	refusal of amalgamation application for environmental authorities for prescribed ERAs
266(1)(b)	refusal of surrender application for an environmental authority for a prescribed ERA
282(1)	proposed action decision for an environmental authority for a prescribed ERA
295(1)	decision about amount and form of financial assurance for an environmental authority for a prescribed ERA
301(1)	decision to make a claim on or realise financial assurance for an environmental authority for a prescribed ERA
305(1)	refusal of application to amend the amount or form of financial assurance or discharge financial assurance, for an environmental authority for a prescribed ERA
306(2)	decision to require holder of an environmental authority for a prescribed ERA to change the amount of financial assurance
311(1)	decision not to change anniversary day for an environmental authority for a prescribed ERA
314(2)	decision to require holder of an environmental authority for a prescribed ERA to make a site-specific application for a new environmental authority or an amendment application

‘Division 3 Decisions under chapter 5A

Section	Description of decision
318G	refusal of application for registration as a suitable operator
318N(1)	decision to cancel or suspend registration

‘Division 4 Decisions under chapter 7

Section	Description of decision
322(1)	decision to give audit notice for a prescribed ERA
323(2)	decision to give audit notice
324(1)(d)	fixing of period for conducting or commissioning environmental audit and giving environmental report for a prescribed ERA
326B(2)	decision to give investigation notice for prescribed ERA
326C(1)(c)	fixing of period for conducting or commissioning environmental investigation and giving environmental report for a prescribed ERA
326G(4)(b)	decision to refuse to accept an environmental report about an environmental investigation for a prescribed ERA
326G(7)	extension of time for decision about environmental report
326I(2)	decision to require another environmental investigation and report for a prescribed ERA
326I(4)(b)	fixing of period for conducting or commissioning environmental investigation and giving environmental report for a prescribed ERA
332(1) or (2)	requirement for draft transitional environmental program

Section	Description of decision
337(2)	extension of time for decision about draft transitional environmental program
339(1) or 344	decision on whether to approve, or to approve an amendment of an approval of, a draft transitional environmental program
339(2)	imposition of conditions on a transitional environmental program approval
344C(1)	decision to make claim on, or realise, financial assurance
353(3)(a)	removal of immunity from prosecution for a person under a refusal to approve a draft transitional environmental program
358	issue of environmental protection order
363B	decision to issue direction notice
363H	decision to issue clean-up notice
363N	decision to issue cost recovery notice
	decision about amount of costs or expenses claimed
374(1)	decision whether land has been, or is being, used for a notifiable activity or is contaminated land
376(2)	requirement for site investigation
378(3)	refusal of application for waiver of requirement to conduct or commission site investigation and report
384(1)	decision whether land is contaminated land
384(2)	decision about particulars of land in contaminated land register
385(2)	requirement for further information about site investigation and report

Section	Description of decision
388(1)	extension of time to make decision about site investigation report
391(1)	requirement to conduct or commission work to remediate contaminated land
392(3)	refusal of application for waiver of requirement to conduct or commission work to remediate contaminated land
396(1)	decision whether land is still contaminated land
398(2)	requirement for additional information about validation report
399(1)	extension of time for consideration of validation report
405(2)(a)	decision to prepare site management plan
405(2)(b) or 411(1)	requirement to prepare or commission site management plan
407(3)	refusal of application for waiver of requirement to prepare or commission site management plan
411(2)(a)	requirement for additional information about site management plan
412	decision whether to approve draft site management plan
415(1)	extension of time for decision about approval of draft site management plan
419(2)(a)	decision to prepare an amendment of a site management plan
419(2)(b)	requirement for preparation and submission of draft amendment of site management plan
419A(2)	requirement to make residual risk payment

Section	Description of decision
423(1)	erection of sign on contaminated land for which particulars are not recorded on the environmental management register or contaminated land register
424(3)	refusal of disposal permit application
424(3) and (4)	imposition of conditions on disposal permit’.
(3)	Schedule 2, part 2, division 7— <i>omit, insert—</i>

‘Division 7 Decisions under chapter 12

Section	Description of decision
571(1)(b)	decision to approve application for approval as auditor subject to conditions
571(1)(c)	decision to refuse application for approval as auditor
574G(1)	decision to cancel or suspend approval as an auditor
574I(2)(b)	decision not to take action on complaint’.
(4)	Schedule 2, part 2, division 8— <i>insert—</i>
‘697(1)(b)	decision to refuse conversion application for an environmental authority for a prescribed ERA’.
(5)	After schedule 2, part 2, division 8— <i>insert—</i>

holder, interim enforcement order, joint applicants, joint application, level 1 chapter 5A activity, level 1 mining project, level 2 chapter 5A activity, level 2 mining project, mining activity, mining project, mining registrar, mining tenement, Minister's decision, National Strategy for Ecologically Sustainable Development, non-code compliant application, non-code compliant authority, objection period, objections decision, objector, person, petroleum activities, progressive certification, project authority, properly made objection, properly made submission, proposed action, proposed action decision, proposed holder, public notice requirement, refusal period, register, registered operator, registration certificate, regulatory requirement, rehabilitation direction, relevant chapter 5A activity, relevant CSG activity, relevant mining activity, relevant mining lease, relevant mining tenement, relevant place, relevant resource authority, relevant standard environmental conditions, replacement environmental authority, residual risks, resource legislation, revised (CSG) EM plan, self-assessable development, standard criteria, standard environmental conditions, submission period, submitted EM plan, suitability report, surrender application, surrender notice, TEP submission, transfer application and unamended Act—

omit.

(2) Schedule 4—

insert—

'amalgamated corporate authority, for chapter 5, part 8, see section 243.

amalgamated environmental authority, for chapter 5, part 8, see section 245.

amalgamated local government authority, for chapter 5, part 8, see section 243.

amalgamated project authority, for chapter 5, part 8, see section 243.

amalgamation application, for chapter 5, part 8, see section 243.

amending Act—

- (a) for chapter 13, part 7, see section 666; or
- (b) for chapter 13, part 18, see section 676.

amendment application, for an environmental authority, see section 224.

amendment decision, for chapter 5, part 6, see section 219(2).

anniversary day, for an environmental authority—

- 1 Generally, the *anniversary day* for an environmental authority means—
 - (a) for an environmental authority for a resource activity—each anniversary of the day the relevant tenure is granted; or
 - (b) for an environmental authority for a prescribed ERA—each anniversary of the day the environmental authority takes effect.

Note—

See, however, sections 602, 677, 680, 682 and 690.

- 2 Also, if the anniversary day for an environmental authority is changed under chapter 5, part 12, division 3, subdivision 2, the *anniversary day* for the authority is the day as changed.
- 3 The anniversary day for an environmental authority does not change merely because the authority is amended, amalgamated or transferred.

annual notice see section 308(2).

applicant, for chapter 5, parts 2 to 5, means the applicant for an environmental authority.

application, for chapter 5, parts 2 to 5, means an application for an environmental authority.

application documents, for an application for an environmental authority, means—

- (a) the properly made application; and

- (b) any EIS submitted under chapter 3, part 1 for the relevant activity; and
- (c) if the application relates to a significant project—any EIS prepared for the project under the State Development Act, part 4.

application notice, for chapter 5, part 4, see section 152(1).

assessment level decision, for chapter 5, part 7, see section 228(2).

assessment process means, for assessing and deciding an application for an environmental authority under chapter 5, the process under chapter 5, parts 2 to 5.

audit notice see sections 322(1) and 323(2).

auditor see section 567.

certified rehabilitated area, for a relevant tenure, see section 318Z(3).

coal seam gas means petroleum, in any state, occurring naturally in association with coal or oil shale, or in strata associated with coal or oil shale mining.

code of practice means a code of practice made by the Minister under section 318E(1).

commencement—

- (a) for chapter 13, part 17, see section 666; or
- (b) for chapter 13, part 18, see section 676.

consultation period—

- (a) for chapter 5A, part 1—see section 317(1)(b)(ii); and
- (b) for chapter 5A, part 2—see section 318C(1)(b)(ii).

Coordinator-General's conditions, for chapter 5, see section 205(2).

CSG activity means a petroleum activity involving exploring for or producing coal seam gas.

CSG evaporation dam means an impoundment, enclosure or structure designed to be used to hold CSG water for evaporation.

CSG water means underground water brought to the surface of the earth or moved underground in connection with exploring for or producing coal seam gas.

draft environmental authority, for an application for an environmental authority, means the draft environmental authority prepared by the administering authority under section 181(2)(b)(i).

eligible ERA, for chapter 5, see section 112.

eligibility criteria, for an environmentally relevant activity, see section 112.

environmental audit, for chapter 7, part 2, see sections 322(1)(a) and 323(2)(a).

environmental authority means—

- (a) generally—
 - (i) an environmental authority issued under section 195 that approves an environmentally relevant activity applied for in an application; or
 - (ii) if a replacement environmental authority is issued for an environmental authority—the replacement environmental authority; or
- (b) for chapter 5, part 12, division 2, subdivision 3, see section 297.

environmental investigation see section 326B(2)(a).

environmental management plan, for chapter 3, part 1, see section 39.

environmental offence means—

- (a) an offence against any of the following provisions—
 - section 260
 - section 291(3)

- chapter 7, part 2
 - section 357(5)
 - section 361
 - chapter 8; or
- (b) an offence against a corresponding law, if the act or omission that constitutes the offence would, if it happens in the State, be an offence against a provision mentioned in paragraph (a).

environmental offset, for chapter 5, part 5, division 6, means works or activities carried out to counterbalance the impacts of a relevant activity under an environmental authority on the natural environment.

environmental offset condition, for chapter 5, part 5, division 6, see section 207(1)(c).

ERA project see section 112.

existing environmental authority, for chapter 5, part 8, see section 243.

existing holder, of an environmental authority, for chapter 5, part 9, see section 252.

final rehabilitation report means a final rehabilitation report prepared under chapter 5, part 10, division 3.

financial assurance, for an environmental authority, means financial assurance given for the authority under chapter 5, part 12, division 2.

geothermal activity see section 108.

geothermal tenure means any of the following under the Geothermal Act—

- (a) a geothermal permit;
- (b) a geothermal lease;
- (c) another approval under the Geothermal Act which grants rights over land.

GHG permit means a GHG permit under the GHG storage Act.

GHG storage activity see section 109.

GHG storage tenure means any of the following under the GHG storage Act—

- (a) a GHG exploration permit (also called a GHG permit);
- (b) a GHG injection and storage lease (also called a GHG lease);
- (c) a GHG injection and storage data acquisition authority (also called a GHG data acquisition authority);
- (d) another approval under the GHG storage Act which grants rights over land.

holder—

- 1 The *holder* of an approval of a transitional environmental program is—
 - (a) the person or public authority that submitted the draft transitional environmental program to the administering authority for approval; or
 - (b) if the transitional environmental program relates to an environmental authority—the holder of the environmental authority.
- 2 The *holder* of an environmental authority for a prescribed ERA is—
 - (a) the person who made an application for the authority; or
 - (b) if a transfer application for the authority has been approved under chapter 5, part 9—the person to whom the transferred environmental authority has been issued.
- 3 The *holder* of an environmental authority for a resource activity is the holder of the relevant tenure.
- 4 The *holder* of a resource tenure is the holder of the tenure under resource legislation.

5 However, if a holder of an environmental authority under paragraph 1 or 2 dies, that person's personal representative becomes the holder.

~~information request~~ **ineligible ERA**, for chapter 5, see section ~~140(1)~~ **112**.

information request, for chapter 5, see section 140(1).

information request period, for chapter 5, see section 144.

information response period, for chapter 5, see section 141(1).

Intergovernmental Agreement on the Environment means the agreement made on 1 May 1992 between the Commonwealth, the States, the Australian Capital Territory, the Northern Territory and the Australian Local Government Association.

Note—

A copy of the Intergovernmental Agreement on the Environment is in the *National Environment Protection Council (Queensland) Act 1994*, schedule.

investigation notice see section 326B(2).

joint applicants, for chapter 5, see section 125(1)(f).

major amendment, for an environmental authority, see section 223.

mining activity see section 110.

mining tenure means—

- (a) a prospecting permit; or
- (b) a mining claim; or
- (c) an exploration permit; or
- (d) a mineral development licence; or
- (e) a mining lease; or
- (f) another approval under the Mineral Resources Act which grants rights over land.

minor amendment, for an environmental authority, see section 223.

minor change, for an amendment application for an environmental authority, means any of the following changes to the application—

- (a) a change that merely corrects a mistake about the name or address of the applicant;
- (b) a change of applicant;
- (c) a change that merely corrects a spelling or grammatical error;
- (d) a change that the administering authority is satisfied would not adversely affect the ability of the authority to assess the changed application.

minor change, for an application for an environmental authority, see section 131.

MRA department means the department in which the Mineral Resources Act is administered.

objection notice, for chapter 5, part 5, see section 182(2).

objections decision, for chapter 5, part 5, division 3, see section 185(1).

objections decision hearing, for chapter 5, part 5, division 3, see section 188(1).

objector, for an application for an environmental authority, means an entity—

- (a) that gave an objection notice under section 182(2); and
- (b) whose objection notice is still current.

Note—

For when an objection notice ceases to have effect, see section 182(4).

on-site mitigation measure, for a relevant activity for an environmental authority, means a measure, carried out on land to which the activity relates, to avoid or minimise negative impacts of the activity on the natural environment.

person—

- (a) for chapter 3, part 1—see section 39: or
- (b) for an application for an environmental authority for a resource activity, other than a mining activity, under chapter 5—includes a body of persons, whether incorporated or unincorporated.

petroleum activity see section 111.

petroleum lease means a petroleum lease under the P&G Act.

petroleum tenure means—

- (a) a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*; or
- (b) a petroleum authority granted under the P&G Act; or
- (c) a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*; or
- (d) another approval under the *Petroleum Act 1923*, the P&G Act or the *Petroleum (Submerged Lands) Act 1982* which grants rights over land.

plan of operations, for chapter 5, part 12, see section 285.

prescribed condition, for carrying out a mining activity authorised under a prospecting permit, means a condition prescribed for the carrying out of the activity under a regulation.

~~***prescribed environmental authority***, for chapter 5, part 12, division 1, see section 285.~~

prescribed ERA see section 106.

prescribed ERA project see section 112.

progressive certification see section 318Z(2).

progressive certification application, for chapter 5A, part 6, see section 318ZC.

properly made application, for chapter 5, see section 127.

properly made submission—

- (a) for chapter 3—see section 55(2); or
- (b) for chapter 5—see section 161(2).

Note—

See also sections 115(4) (Development application taken to be application for environmental authority in particular circumstances) and 150(3) (Notification stage does not apply if EIS process complete).

proposed action—

- (a) for chapter 5, part 11—see section 280(1)(a); or
- (b) for chapter 5A, part 4, division 2—see section 318L(1)(a); or
- (c) for chapter 12, part 3A, division 4—see section 574E(2)(a).

proposed action decision—

- (a) for chapter 5, part 11—see section 282(2); or
- (b) for chapter 5A, part 4, division 2—see section 318N(2).

proposed amendment, for an environmental authority, for chapter 5, part 6, see section 217(1)(a).

proposed amendment notice, for chapter 5, part 6, see section 217(1).

public notice requirements, for chapter 5, see section 158(1).

register means a register kept under section 540 or 540A.

registered suitable operator means a person whose name and address is entered in the register of suitable operators under section 318I(1)(b).

regulatory function, for chapter 12, part 3, see section 564.

regulatory requirement means a requirement under an environmental protection policy or a regulation for—

- (a) the administering authority to—
 - (i) approve or refuse, or follow stated procedures for evaluating, any of the following applications—

- (A) an application for an environmental authority;
 - (B) an amendment application or surrender application for an environmental authority;
 - (C) a progressive certification application under chapter 5A, part 6;
 - (D) an application for approval of a transitional environmental program; or
- (ii) impose or amend a condition of an environmental authority or an approval of a transitional environmental program; or
- (b) the Land Court to make an objections decision under section 191.

rehabilitation direction, for chapter 5, part 10, see section 274(2).

relevant activity, for—

- (a) an environmental authority—means the environmentally relevant activity the subject of the authority; or
- (b) an application for an environmental authority—means the environmentally relevant activity the subject of the application.

relevant area—

- (a) for chapter 5, part 10, division 6—see section 271(2); or
- (b) for chapter 7, part 8, division 5, subdivision 5—see section 419A(2).

relevant entity for chapter 11, part 4, see section 541(1).

relevant existing authority, for chapter 5A, part 2, see section 318A.

relevant lease, for chapter 5, part 12, division 1, see section 285.

relevant mining activity, for—

- (a) an environmental authority for a mining activity—means the mining activity the subject of the authority; or
- (b) an application for an environmental authority for a mining activity—means the mining activity the subject of the application.

relevant mining lease, for an environmental authority or an application for an environmental authority for a mining activity, means a mining lease, or proposed mining lease, to which a relevant mining activity relates.

relevant mining tenure, for an environmental authority or an application for an environmental authority for a mining activity, means a mining tenure, or proposed mining tenure, to which a relevant mining activity relates.

relevant resource activity, for—

- (a) an environmental authority for a resource activity—means a resource activity the subject of the authority; or
- (b) an application for an environmental authority for a resource activity—means a resource activity the subject of the application.

relevant tenure, for an environmental authority or an application for a resource activity, means—

- (a) a resource tenure to which a relevant resource activity relates; or
- (b) a proposed resource tenure to which a relevant resource activity relates.

replacement environmental authority, for an environmental authority, means—

- (a) if a new environmental authority is issued for the environmentally relevant activity the subject of the authority—the new environmental authority; or

- (b) if the authority is amended—the amended environmental authority issued under section 242(1)(b); or
- (c) if a transfer application for the authority is approved—the transferred environmental authority issued under section 255(1)(b); or
- (d) if an amalgamation application for the authority is approved—the amalgamated environmental authority issued under section 248(b).

residual risks, of an area within a resource tenure or land to which a site management plan relates, means all or any of the following—

- (a) the risk that, although the rehabilitation appeared to be satisfactory when the area was assessed for a progressive certification application, surrender application or site management plan—
 - (i) it will, in the foreseeable future, fail to perform as predicted in a relevant progressive rehabilitation report, a relevant final rehabilitation report or the site management plan; and
 - (ii) the failure will result in the need for repair, replacement or maintenance work for the area;
- (b) the risk that the area will need ongoing management;

Examples of ongoing management—

- maintenance of 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
 - continuation of a monitoring and verification plan under the GHG storage Act for the relevant area to ensure GHG stream storage under that Act is taking place as predicted
- (c) the risk of contaminants being released from the area by animals, water or wind and potentially causing environmental harm that may require a program to

monitor what management action should be taken for the release.

residual risks requirement—

- (a) for chapter 5, part 10, division 6—see section 271(3); or
- (b) for chapter 7, part 8, division 5, subdivision 5—see section 419A(3).

resource activity see section 107.

resource legislation means any of the following Acts—

- (a) the Geothermal Act;
- (b) the GHG storage Act;
- (c) the Mineral Resources Act;
- (d) the *Petroleum Act 1923*;
- (e) the P&G Act;
- (f) the *Petroleum (Submerged Lands) Act 1982*.

resource project see section 112.

resource tenure means—

- (a) a geothermal tenure; or
- (b) a GHG storage tenure; or
- (c) a mining tenure; or
- (d) a petroleum tenure.

show cause notice, for chapter 12, part 3A, division 4, see section 574E(1).

site-specific application, for chapter 5, see section 124.

standard application, for chapter 5, see section 122.

standard conditions, for an environmentally relevant activity or an environmental authority, means the standard conditions for the activity or authority—

- (a) made by the chief executive under section 318D(1); and
- (b) prescribed under a regulation.

standard criteria means—

- (a) the following principles of environmental policy as set out in the Intergovernmental Agreement on the Environment—
 - (i) the precautionary principle;
 - (ii) intergenerational equity;
 - (iii) conservation of biological diversity and ecological integrity; and
- (b) any Commonwealth or State government plans, standards, agreements or requirements about environmental protection or ecologically sustainable development; and
- (c) any relevant wild river declaration; and
- (d) any relevant environmental impact study, assessment or report; and
- (e) the character, resilience and values of the receiving environment; and
- (f) all submissions made by the applicant and submitters; and
- (g) the best practice environmental management for activities under any relevant instrument, or proposed instrument, as follows—
 - (i) an environmental authority;
 - (ii) a transitional environmental program;
 - (iii) an environmental protection order;
 - (iv) a disposal permit;
 - (v) a development approval; and
- (h) the financial implications of the requirements under an instrument, or proposed instrument, mentioned in paragraph (g) as they would relate to the type of activity or industry carried out, or proposed to be carried out, under the instrument; and

- (i) the public interest; and
- (j) any relevant site management plan; and
- (k) any relevant integrated environmental management system or proposed integrated environmental management system; and
- (l) any other matter prescribed under a regulation.

statement of compliance, for chapter 5, part 5, division 6, see section 207(1)(b).

submission period—

- (a) for chapter 3, part 1—see section 39; or
- (b) for chapter 5, part 4—see section 153(1)(g).

suitability report see section 318S(1).

suitably qualified person, for chapter 12, part 3, see section 564.

surrender application, for an environmental authority, see section 257(1).

surrender notice, for an environmental authority, see section 258(2).

transfer application, for an environmental authority, see section 252.

transferred environmental authority, for chapter 5, part 9, see section 255(1)(b).

UDA development approval, for chapter 13, part 18, see section 676.

UDA development condition, for chapter 13, part 18, see section 676.

ULDA Act, for chapter 13, part 18, see section 676.

unamended Act—

- (a) for chapter 13, part 17, see section 666; or
- (b) for chapter 13, part 18, see section 676.

variation application, for chapter 5, see section 123.7.

- (3) Schedule 4, definition *contaminated land register*, ‘section 540(1)(h)(ii)’—
omit, insert—
‘section 540A(1)(d)(ii)’.
- (4) Schedule 4, definition *disqualifying event*, from paragraph (b)(ii)—
omit, insert—
(ii) a registration of a suitable operator under chapter 5A, part 4; or
(iii) an authority, instrument, licence or permit, however called, similar to an environmental authority or a registration of a suitable operator under a corresponding law; or
(c) an event prescribed under a regulation to be a disqualifying event.’.
- (5) Schedule 4, definition *environmental management register*, ‘section 540(1)(h)(i)’—
omit, insert—
‘section 540A(1)(d)(i)’.
- (6) Schedule 4, definition *mobile and temporary environmentally relevant activity*, ‘chapter 4 activity’—
omit, insert—
‘prescribed ERA’.

Part 3 **Amendment of Sustainable Planning Act 2009**

63 Act amended

This part amends the *Sustainable Planning Act 2009*.

Note—

See also the amendments in the schedule.

64 Amendment of s 10 (Definitions for terms used in development)

Section 10(1), definition *material change of use*—

omit, insert—

‘material change of use, of premises, means—

- (a) the start of a new use of the premises; or
- (b) the re-establishment on the premises of a use that has been abandoned; or
- (c) a material increase in the intensity or scale of the use of the premises.’.

65 Replacement of s 261 (When application is a *properly made application*)

Section 261—

omit, insert—

‘261 When application is a *properly made application*

- (1) An application is a *properly made application* if—
- (a) the application is made in compliance with section 260(1) and (3); and
 - (b) if the application relates to land in a declared master planned area and the structure plan for the master planned area requires a master plan for the development—the master plan has been approved or a master plan application for the master plan was made with or before the making of the application; and
 - (c) if the application is taken, under the Environmental Protection Act, section 115, to also be an application for an environmental authority—the application complies with the Environmental Protection Act, section 125, as if a reference to—

-
- (i) the application were a reference to the development application; and
 - (ii) the applicant were a reference to the applicant for the development application.
- ‘(2) Despite subsection (1)(c), the Environmental Protection Act, section 125(1)(a) and (b) does not apply to the application.’.

66 Amendment of s 319 (Decision-making period—changed circumstances)

Section 319(c)(i), after ‘responses’—

insert—

‘or environmental authorities’.

67 Amendment of s 321 (Applicant may stop decision-making period to request chief executive’s assistance)

(1) Section 321(1)(a)—

omit, insert—

- ‘(a) by written notice (the *request*) given to the chief executive, ask the chief executive to resolve conflict between—
- (i) 2 or more concurrence agency’s responses containing conditions the applicant is satisfied are inconsistent; or
 - (ii) an environmental authority and a concurrence agency’s response if—
 - (A) the development application is taken to also be an application for an environmental authority under the Environmental Protection Act, section 115; and
 - (B) the administering authority is a concurrence agency for the development application; and

- (C) the administering authority issued the environmental authority for the application under the Environmental Protection Act; and
 - (D) the applicant is satisfied there are inconsistencies between the conditions of the environmental authority and the concurrence agency's response; and'.
- (2) Section 321(2), 'in the concurrence agency's responses'—
omit.
- (3) Section 321(4), from 'agencies,'—
omit, insert—
'agencies—
- (a) exercise all the powers of the concurrence agencies necessary to reissue 1 or more concurrence agency's responses to address any inconsistency; or
 - (b) if the conflict is of a type mentioned in subsection (1)(a)(ii) and the chief executive is satisfied the environmental authority should be reissued—direct the administering authority to reissue the environmental authority to address the inconsistency.'

68 Amendment of s 335 (Content of decision notice)

- (1) Section 335(4) and (5)—
renumber as section 335(6) and (7).
- (2) Section 335—
insert—
- '(4) Subsection (5) applies if the application is taken under the Environmental Protection Act, section 115, to also be an application for an environmental authority.
- '(5) The decision notice must also state details of any environmental authority given for the application under the Environmental Protection Act.'

69 Amendment of s 350 (Meaning of *minor change*)

Section 350(1)(d)—

insert—

‘(v) if the application is taken under the Environmental Protection Act, section 115 to also be an application for an environmental authority—does not change the type of application made under the Environmental Protection Act.’.

70 Omission of ch 6, pt 9 (Applying IDAS to mobile and temporary environmentally relevant activities)

Chapter 6, part 9—

omit.

71 Replacement of s 399 (Who may carry out compliance assessment)

Section 399—

omit, insert—

‘399 Who may carry out compliance assessment

- ‘(1) Compliance assessment of development, a document or work must be carried out by—
- (a) a local government; or
 - (b) a nominated entity of a local government; or
 - (c) a public sector entity; or
 - (d) a nominated entity of a public sector entity.
- ‘(2) Subsection (3) applies if a relevant instrument or a local government condition states that a nominated entity of a local government may be the compliance assessor for development, a document or work.
- ‘(3) A nominated entity of a local government may carry out compliance assessment under this part for the development, document or work.

- ‘(4) Subsection (5) applies if an instrument mentioned in section 397(2) or a public sector entity condition states that a nominated entity of a public sector entity may be the compliance assessor for development, a document or work.
- ‘(5) A nominated entity of a public sector entity may carry out compliance assessment under this part for the development, document or work.
- ‘(6) In this section—
- local government condition*** means a condition of—
- (a) a development approval imposed by a local government as assessment manager; or
 - (b) a compliance permit imposed by a local government as compliance assessor.
- nominated entity***, of a local government, means a suitably qualified entity that, by resolution of the local government, is nominated to carry out compliance assessment for the local government.
- nominated entity***, of a public sector entity, means a suitably qualified entity that is nominated by the chief executive of the public sector entity to carry out compliance assessment for the public sector entity.
- public sector entity condition*** means a condition of—
- (a) a development approval imposed by a public sector entity as assessment manager or a concurrence agency; or
 - (b) a compliance permit imposed by a public sector entity as compliance assessor.’.

72 Amendment of s 401 (Request for compliance assessment)

Section 401(c)(iii), after ‘local government’—

insert—

‘or a public sector entity’.

73 Amendment of s 413 (Changing compliance permit or compliance certificate)

Section 413(4)—

omit, insert—

‘(4) Subsection (5) applies if—

(a) the entity that gave the compliance permit or compliance certificate was a nominated entity of a local government or a public sector entity; and

(b) the entity is no longer a nominated entity.

‘(5) For subsection (1), the person may ask the following entity to change the permit or certificate—

(a) if the entity that gave the compliance permit or compliance certificate was a nominated entity of a local government—the local government;

(b) if the entity that gave the compliance permit or compliance certificate was a nominated entity of a public sector entity—the public sector entity.’.

74 Amendment of s 420 (Ministerial directions to concurrence agencies)

(1) Section 420(2) to (6)—

renumber as section 420(4) to (8).

(2) Section 420—

insert—

‘(2) Subsection (3) applies if—

(a) a development application is taken to also be an application for an environmental authority under the Environmental Protection Act, section 115; and

(b) the administering authority is a concurrence agency for the development application; and

- (c) the administering authority issues an environmental authority for the application under the Environmental Protection Act; and
 - (d) the Minister is satisfied there are inconsistencies between the environmental authority and a concurrence agency's response.
- ‘(3) The Minister may, by written notice, give a direction to—
- (a) the administering authority to reissue the environmental authority to address the inconsistency; or
 - (b) the concurrence agency that gave the concurrence agency's response to reissue the response to address the inconsistency.’.

(3) Section 420(4), as renumbered, ‘The notice’—
omit, insert—
‘A notice given under subsection (1) or (3)’.

75 Amendment of s 580 (Compliance with development approval)

- (1) Section 580(3)—
omit.
- (2) Section 580(4)—
renumber as section 580(3).

76 Amendment of s 715 (Power of assessment manager or other entity to enter land in particular circumstances)

Section 715(2), definition *relevant entity*, paragraph (b)—
omit, insert—

- ‘(b) if the compliance assessor for the request is a nominated entity of a local government—the local government; or
- (c) if the compliance assessor for the request is a nominated entity of a public sector entity—the public sector entity.’.

77 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definition *mobile and temporary environmentally relevant activity*—
omit.
- (2) Schedule 3, definition *assessing authority*, paragraph (g)—
insert—
‘(iii) if the compliance assessor giving the permit for the development is a nominated entity of a public sector entity—the public sector entity; or’.
- (3) Schedule 3, definition *assessing authority*, paragraph (h)—
insert—
‘(iii) if the entity that would have been the compliance assessor is a nominated entity of a public sector entity—the public sector entity; or’.
- (4) Schedule 3, definition *assessing authority*, paragraph (i)—
insert—
‘(iii) if the compliance assessor giving the certificate is a nominated entity of a public sector entity—the public sector entity; or’.
- (5) Schedule 3, definition *assessing authority*, paragraph (j)—
insert—
‘(iii) if the entity that would have been the compliance assessor is a nominated entity of a public sector entity—the public sector entity; or’.
- (6) Schedule 3, definition *properly made application*, ‘section 261’—
omit, insert—
‘section 261(1)’.

Part 4 Other amendments

78 Legislation amended in schedule

The schedule amends the Acts it mentions.

Schedule Amendment of other Acts

section 78

Aboriginal Cultural Heritage Act 2003

- 1 **Section 88(6), definition *environmental assessment*, from ‘but’ to ‘1994’—**
omit.

Coastal Protection and Management Act 1995

- 1 **Section 85(b)(iii)(B), ‘the required authority’—**
omit, insert—
‘an environmental authority’.
- 2 **Section 100A(2)(b), ‘the required authority’—**
omit, insert—
‘an environmental authority’.
- 3 **Section 100A(3)(a)(iii)—**
omit.
- 4 **Section 100A(6)—**
omit.

5 Schedule, definitions *chapter 4 activity, registration certificate and required authority*—

omit.

Environmental Protection Act 1994

1 Section 19, ‘agricultural ERA, a mining activity or a chapter 5A activity’—

omit, insert—

‘agricultural ERA or a resource activity’.

2 Section 37(1)(a), ‘(mining activities) and a relevant mining activity for the application’—

omit, insert—

‘for a mining activity that’.

3 Section 37(1)(b), ‘(chapter 5A activities)’—

omit, insert—

‘for a resource activity, other than a mining activity’.

4 Section 38(2)(c), ‘tenement’—

omit, insert—

‘mining tenure’.

5 Section 38(2)(d)—

omit, insert—

‘(d) for land subject to a relevant tenure for an environmental authority for a resource activity, other than a mining activity—the holder of the tenure;’.

- 6 Section 320, definition *public notice*, ‘way, and under the circumstances,’—**
omit, insert—
‘way’.
- 7 Section 320A(1)(b), ‘chapter 5A activity’—**
omit, insert—
‘resource activity, other than a mining activity’.
- 8 Section 320A(2)(f)—**
omit, insert—
‘(f) a prescribed condition for carrying out a mining activity authorised under a prospecting permit; or’.
- 9 Sections 320C(3)(a) and 320D(3)(a)—**
omit, insert—
‘(a) written notice of the event, its nature and the circumstances in which it happened to—
(i) any occupier of the affected land; or
(ii) any registered owner of the affected land; or’.
- 10 Section 320D(3)(b), ‘at the affected’—**
omit, insert—
‘on the affected’.
- 11 Section 344(2), ‘section 335(2) and (3)’—**
omit, insert—
‘section 335(2) to (4)’.

12 Section 369(b)—

insert—

‘(iii) an environmental authority; or’.

13 Section 369(c)—

omit.

14 Section 369(d)—

renumber as section 369(c).

15 Sections 375(1), 377(1), 390(1), 391(1), 403(1) and 406(2)—

insert—

Note—

See also section 565 (Only suitably qualified person may perform regulatory functions).’.

16 Section 381—

omit.

17 Section 383(1)(a) and (b)—

omit, insert—

‘(a) if the report is submitted to comply with a notice given to a person by the administering authority—the recipient; or

(b) if the report is voluntarily submitted by a person—the person.’.

18 Section 383(4)—

omit.

- 19 Section 410—**
omit.
- 20 Section 435B—**
omit.
- 21 Section 440ZQ(2), ‘a registration certificate’—**
omit, insert—
‘an environmental authority’.
- 22 Section 444A—**
omit.
- 23 Section 480(4) and (5)—**
omit.
- 24 Section 490(5)(a) and (c), ‘requirement, registration certificate’—**
omit, insert—
‘requirement’.
- 25 Section 490(5)(b), ‘registration certificate,’—**
omit.
- 26 Section 490(5)(d), ‘certificate’—**
omit.
- 27 Section 499, ‘or registration certificate’—**
omit.

28 Section 504—

omit.

29 Chapter 10, part 5—

omit.

30 Sections 664(2) and 665(2), ‘Section 426A’—

omit, insert—

‘Section 426’.

31 Sections 664(2)(b) and 665(2)(b), ‘(chapter 5A activities)’—

omit.

**~~Environmental Protection and Other Legislation-
Amendment Act 2011~~**

~~1 Section 64—~~

~~*omit.*~~

Geothermal Energy Act 2010

1 Section 202(3), note, ‘chapter 5A’—

omit, insert—

‘chapter 5’.

2 Section 212(2)(d), ‘documentation’—

omit.

3 Section 212(5)—

omit.

4 Section 287(2)(~~ab~~)(~~iii~~), before ‘environmental authority’—

~~*omit, insert—*~~

~~‘(ii) is a registered suitable operator under the
Environmental Protection Act; and~~

~~(iii) is a holder of any relevant Water Act authorisation;
and’.~~

5 Section 287(2)(b)(i), before ‘environmental authority’—

~~*insert—*~~

‘relevant’.

Greenhouse Gas Storage Act 2009

1 Section 279(2)(d), ‘documentation’—

omit.

2 Section 279(5)—

omit.

**3 Section 353(2)(~~ab~~)(i), before ‘holder of the relevant
environmental authority’—**

~~*omit, insert—*~~

~~‘registered suitable operator under the Environmental Protection Act~~**relevant**~~’.~~

4 Section 353(2)(b)(i), before ‘environmental authority’—

~~insert—~~

~~‘relevant’.~~

Mineral Resources Act 1989

1 Section 10A(3), ‘96(11)’—

~~omit, insert—~~

~~‘96(10)’.~~

2 Section 21(2) and (3)—

~~omit.~~

3 Sections 22, 73(2), 74(4), 80(2) and 89, ‘and the EPA administering authority’—

~~omit.~~

1 Section 25(5), ‘a relevant environmental condition for the prospecting permit’—

~~omit, insert—~~

~~‘a prescribed condition under the Environmental Protection Act for carrying out a mining activity authorised under the prospecting permit’.~~

5 Section 37(2)—

~~omit.~~

2 **Section ~~61~~64A(4) and ~~1~~(5b)—**

omit.

3 **Section ~~61~~64A(61)—(8c)—**

renumber as section ~~61~~64A(41)—(6b).

8 **Section ~~61~~(6), as renumbered, ‘subsection (7)’—**

omit, insert—

‘subsection (5)’.

9 **Section ~~64A~~(1)(b)—**

omit.

10 **Section ~~64A~~(1)(c)—**

renumber as section ~~64A~~(1)(b).

4 **Section ~~64A~~Sections ~~74~~(2)(c) and ~~123~~(3)(e), ‘(mining claim)’—**

omit.

5 **Sections ~~74~~Section ~~107~~(~~210~~)(e) and ~~123~~(3)(e), ‘(mining claim)’—**

omit.

13 **Section ~~75~~(2)(e)—**

omit.

14 **Section ~~76~~(3)(e)—**

omit.

- 15** ~~Section 76(3)(d)~~—
renumber as section 76(3)(c).
- 16** ~~Section 82(6)~~—
omit.
- 17** ~~Section 93(6)~~—
omit.
- 18** ~~Section 93(7)–(9)~~—
renumber as section 93(6)–(8).
- 19** ~~Section 93D(1), ‘section 96(6)’~~—
omit, insert—
‘section 96(5)’.
- 20** ~~Section 96(2)~~—
omit.
- 21** ~~Section 96(3)–(11)~~—
renumber as section 96(2)–(10).
- 22** ~~Section 96(3) and (4), as renumbered, ‘subsection (3)’~~—
omit, insert—
‘subsection (2)’.
- 23** ~~Section 96(5), as renumbered, ‘subsection (5)(a)’~~—
omit, insert—
‘subsection (4)(a)’.

- 6** ~~Section 96~~**Sections 123(3)(6c), as renumbered,**
~~‘subsections 230(3)(c) and 314(3)(5c)’—~~
omit, insert—
~~‘subsections (2) and (4)’.~~
- 25** ~~Section 96(6), as renumbered, ‘subsection (5)’—~~
omit, insert—
~~‘subsection (4)’.~~
- 26** ~~Section 96(6), as renumbered, ‘subsection (3)’—~~
omit, insert—
~~‘subsection (2)’.~~
- 27** ~~Section 96(9), as renumbered, ‘subsection (6) or (7)’—~~
omit, insert—
~~‘subsection (5) or (6)’.~~
- 28** ~~Section 105(6)—~~
omit.
- 29** ~~Section 106(6)—~~
omit.
- 30** ~~Section 107(2)—~~
omit.
- 31** ~~Section 107(3)–(12)—~~
renumber as section 107(2)–(11).

- 32** ~~Section 107(3) and (4), as renumbered, ‘subsection (3)’—~~
omit, insert—
‘subsection (2)’.
- 33** ~~Section 107(5), as renumbered, ‘subsection (5)’—~~
omit, insert—
‘subsection (4)’.
- 34** ~~Section 107(8), as renumbered, ‘subsection (7)’—~~
omit, insert—
‘subsection (6)’.
- 35** ~~Section 107(9)(b), as renumbered, ‘(mining claim)’—~~
omit.
- 36** ~~Section 107(11), as renumbered, ‘subsection (12)’—~~
omit, insert—
‘subsection (11)’.
- 37** ~~Section 108(4)—~~
omit.
- 38** ~~Sections 123(3)(c), 230(3)(c) and 314(3)(c)—~~
omit, insert—
‘(c) any costs or expenses mentioned in the Environmental Protection Act, section 298 for a relevant environmental authority;’.
- 39** ~~Section 133(2) and (3)—~~
omit.

- 40** ~~Section 134A, 'section 133(1)(f)'~~
omit, insert —
'section 133(f)'.
- 41** ~~Section 137(3)(b), 'section 133(1)(g)(i)'~~
omit, insert —
'section 133(g)(i)'.
- 42** ~~Section 137(6)~~
omit.
- 43** ~~Section 137(7)~~
renumber as section 137(6).
- 44** ~~Section 139(9)~~
omit.
- 45** ~~Section 140(8)~~
omit.
- 46** ~~Section 141C(5)~~
omit.
- 47** ~~Section 147B~~
omit.
- 48** ~~Section 151(3)~~
omit.

- 49 Section 151(4) and (4A)—**
renumber as section 151(3) and (4).
- 50 Section 151(5), ‘subsection (4)(a)’—**
omit, insert—
‘subsection (3)(a)’.
- 51 Section 151(6), ‘subsections (1) and (4)’—**
omit, insert—
‘subsections (1) and (3)’.
- 7 Section 159161(5)(2Bb), ‘section 133(1)(dexploration)’—**
omit, insert—
‘section 133(d)’.
- 53 Section 159(4)—**
omit.
- 8 Section 160210(5)(b), ‘(mineral development)’—**
omit.
- 55 Section 160(6)—**
renumber as section 160(5).
- 56 Section 161(2)—**
omit.
- 57 Section 161(3)–(7)—**
renumber as section 161(2)–(6).

9 **Section ~~161~~230(3)(2e), as renumbered, ‘subsection (4mineral development)’—**

omit, insert—

‘subsection (3)’.

59 **Section ~~161~~(4)(b), as renumbered, ‘(exploration)’—**

omit.

10 **Section ~~161~~252A(61), as renumbered, ‘subsection (7b)’—**

omit, insert—

‘subsection (6)’.

61 **Section ~~183~~(3) and (4)—**

omit.

62 **Section ~~186~~(8)—**

omit.

63 **Section ~~186~~(9)—**

renumber as section ~~186~~(8).

64 **Section ~~189~~(3)—**

omit.

11 **Section ~~189~~252A(4) and ~~1~~(5c)—**

renumber as section ~~189~~252A(3) and ~~1~~(4b).

66 **Section ~~194AC~~(6)—**

omit.

67 Section 197B—

omit.

68 Section 198(2)—

omit.

12 Section ~~198~~265(3) to (5A5)—

renumber as section ~~198~~265(2)–5 to (57).

70 Section 198(4), as renumbered, ‘subsection (4)’—

omit, insert—

‘subsection (3)’.

13 Section ~~198~~265(6), ‘subsection 1 and (5)(a2)’—

omit, insert—

‘subsection (4)(a)’.

Section 198: ~~(71), ‘subsections~~ Subsection (42) and (5) applies if—

omit, insert—

‘subsections (3) and (4)’.

73 Section 198(9), ‘subsection (5)’—

omit, insert—

‘subsection (4)’.

(a) a properly made objection is made for an application for a mining lease; and

(b) the application relates to an application (an *environmental authority application*) under the Environmental Protection Act for an environmental authority for a mining activity relating to a mining lease; and

~~Section 208(7c)~~ either—

~~omit.~~

- ~~(i) an objection notice for a submission about the environmental authority application is given to the EPA administering authority under the Environmental Protection Act, section 182(2); or~~
 - ~~(ii) the applicant for the environmental authority application has requested under the Environmental Protection Act, section 183(1), that the application be referred to the Land Court.~~
- ~~(2) The mining registrar must, within 10 business days after the later of the following, refer the application for the mining lease and all properly made objections to it to the Land Court for hearing—~~
- ~~(a) the last objection day for the application;~~
 - ~~(b) if an objection is lodged after the last objection day under section 260(2)—the end of the period for lodging an objection under that subsection;~~
 - ~~(c) the receipt by the EPA administering authority of the last objection notice for the environmental authority application under the Environmental Protection Act, section 182;~~
 - ~~(d) the receipt by the EPA administering authority of a request for referral for the environmental authority application under the Environmental Protection Act, section 183.~~
- ~~(3) Subsection (4) applies if a properly made objection is made for an application for a mining lease, other than an application mentioned in subsection (1).~~
- ~~(4) The mining registrar must, within 10 business days after the later of the following, refer the application and all properly made objections to it to the Land Court for hearing—~~
- ~~(a) the last objection day for the application;~~

(b) if an objection is lodged after the last objection day under section 260(2)—the end of the period for lodging an objection under that subsection.

14 **Section ~~209~~265(5)(c), as renumbered—**
omit.

76 **Section ~~209(6)~~—**
renumber as section 209(5).

77 **Section ~~210(2)~~—**
omit.

15 **Section ~~210~~265(~~35~~)-(13d), as renumbered—**
renumber as section 210265(23)-(12c).

16 **Section ~~210~~298(~~310~~), editor as renumbered, ‘subsection-
(13)’s note—**
omit, insert—
‘subsection (12)’.

80 **Sections ~~210(4)(b)~~, as renumbered, ‘(mineral-
development)’—**
omit.

81 **Section ~~210(9) and (10)~~, as renumbered, ‘subsection-
(9)’—**
omit, insert—
‘subsection (8)’.

-
- 82 ~~Section 210(10), as renumbered, ‘subsection (10)’—~~
omit, insert—
‘subsection (9)’.
- 83 ~~Section 210(11), as renumbered, ‘subsection (11)’—~~
omit, insert—
‘subsection (10)’.
- 84 ~~Section 230(3)(e), ‘(mineral development)’—~~
omit.
- 85 ~~Section 231A(3), ‘197B’—~~
omit.
- 86 ~~Section 231C(2)—~~
omit.
- 87 ~~Section 231E(8)—~~
omit.
- 88 ~~Section 231G(5)—~~
omit.
- 89 ~~Section 231G(6)–(8)—~~
renumber as section 231G(5)–(7).
- 90 ~~Section 231G(7), as renumbered, ‘and (7)’—~~
omit, insert—
-

~~'and (6)'~~.

91 ~~Section 231H(8)—~~

~~omit.~~

92 ~~Section 234(4)—~~

~~omit.~~

93 ~~Section 237(3) and (4)—~~

~~omit.~~

94 ~~Section 237(5)–(7)—~~

~~renumber as section 237(3)–(5).~~

95 ~~Section 245(4) and (5)—~~

~~omit.~~

96 ~~Section 250(8)—~~

~~omit.~~

97 ~~Section 252A(1)(b)—~~

~~omit.~~

98 ~~Section 252A(1)(c)—~~

~~renumber as section 252A(1)(b).~~

99 ~~Section 252A(2)(c)—~~

~~omit.~~

100 Section 265(2)—

insert—

~~‘(c) if the application relates to an application under the Environmental Protection Act for an environmental authority for a mining activity relating to a mining lease the day the notification stage for the environmental authority application ends under that Act.~~

Note—

~~For when the notification stage for an application for an environmental authority ends, see the Environmental Protection Act, section 164.’~~

101 Section 265(3)(e)—

omit.

102 Section 265(3)(d)—

renumber as section 265(3)(e).

103 Section 267(2)—

omit.

104 Section 271(5)—

omit, insert—

~~‘(5) If the Minister completely or partly rejects an application or, under subsection (3)(c), gives a direction (the *action*), the Minister must promptly give the applicant a written notice stating the action and the reasons for it.’~~

105 Section 286B—

omit.

106 ~~Section 287(2)~~

omit.

107 ~~Section 294(6)~~

omit.

108 ~~Section 298(10)~~

insert

‘Note

See, however, the Environmental Protection Act, section 426 (Environmental authority required for particular environmentally relevant activities) and chapter 5, part 12, division 1 (Plan of operations for environmental authority relating to mining lease or petroleum lease).’.

109 ~~Section 298(14)~~

omit.

110 ~~Section 299(11)~~

omit.

111 ~~Section 300(3)~~

omit.

112 ~~Section 300(4)–(6A)~~

renumber as section 300(3)–(6).

113 ~~Section 300(4) and (5), as renumbered, ‘subsection (4)’~~

omit, insert

‘subsection (3)’.

-
- 114 **Section 300(8), ‘subsection (6)(a)’—**
omit, insert—
‘subsection (5)(a)’.
- 17 **Section ~~300~~309(6)(9b), ‘subsections (4) to (7 mining lease)’—**
omit, insert—
‘subsections (3) to (7)’.
- 116 **Section 307(5)—**
omit.
- 117 **Section 308(6)—**
omit.
- 18 **Section ~~309~~314(3)(e), ‘(mining lease)’—**
omit.
- 19 **Section ~~309~~391A(41)–(14a), ‘mining tenement’—**
renumber as section 309(3)–(13).
- 120 **Sections 309(5)(b), as renumbered, ‘(mining lease)’—**
omit.
- 121 **Section 309(8) and (9), as renumbered, ‘subsection (8)’—**
omit, insert—
‘subsection (7)’.
-

- 122** ~~Section 309(13), as renumbered, ‘subsection (12)’—~~
omit, insert—
~~‘subsection (11)’.~~
- 123** ~~Section 314(3)(e), ‘(mining lease)’—~~
omit.
- 124** ~~Section 318AAE(2)—~~
omit.
- 125** ~~Section 318AAE(3)—~~
renumber as section 318AAE(2).
- 126** ~~Sections 386(7)(a) and 386A(4)(a), ‘the EPA administering authority and’—~~
omit.
- 127** ~~Section 391A(1)(a), ‘mining tenement’—~~
omit, insert—
‘mining tenement, other than a prospecting permit’.
- 20** ~~Section 391A(1)(b), ‘mining tenement’—~~
omit, insert—
‘mining tenement, other than a prospecting permit,’.
- 129** ~~Section 391A(4), ‘holds a relevant environmental authority’—~~
omit, insert—

~~‘is a registered suitable operator under the Environmental Protection Act’.~~

21 Section 391A(6)—

omit.

131 Section 391A(7)—

22 ~~renumber as section~~ Section 391A(67).—

132 Section 416B(2)(a)(i), examples, item 1, ‘section 133(1)(g)(ii)’—

~~omit, insert—~~

~~renumber as~~ section 133391A(g6)(ii).

133 Section 416B(3)(b), examples, item 2, ‘section 231C(1)(e)(ii)’—

~~omit, insert—~~

23 ~~‘Schedule 1, section 231C6(e2)(ii d), ‘documentation’—~~

134 ~~Schedule 1, section 6(2)(d), ‘documentation’—~~

omit.

24 Schedule 1, section 6(5)—

omit.

25 Schedule 2, definitions *environmental authority (exploration)*, *environmental authority (mineral*

***development), environmental authority (mining claim)
and environmental authority (mining lease)—***

omit.

26 Schedule 2—

insert—

‘environmental authority means an environmental authority under the Environmental Protection Act.’.

**27 Schedule 2, definitions *EPA administering authority* and
relevant environmental condition, ‘(mining activities)—**

omit, insert—

‘for mining activities’.

**North Stradbroke Island Protection and Sustainability
Act 2011**

1 Section 21(1) and (2), ‘chapter 5, part 8’—

omit, insert—

‘chapter 5, part 7’.

Petroleum Act 1923

1 Section 78M(2)(d), ‘documentation’—

omit.

2 Section 78M(5)—

omit.

3 Section 80J(2)(~~a~~b)(i), before ‘environmental authority’—

omit, insert—

~~‘(a) is a registered suitable operator under the Environmental Protection Act; and’.~~

4 Section 80J(2)(b)(i), before ‘environmental authority’—

insert—

‘relevant’.

Petroleum and Gas (Production and Safety) Act 2004

1 Section 496(2)(d), ‘documentation’—

omit.

2 Section 496(5)—

omit.

3 Section 573(2)(a)—

omit, insert—

~~‘(a) is a registered suitable operator under the Environmental Protection Act; and’.~~

3 Section 573(2)(b)(i), before ‘environmental authority’—

insert—

‘relevant’.

State Development and Public Works Organisation Act 1971

1 Section 24, definition *environmental authority (mining lease)*—

omit.

2 Section 24—

insert—

‘*environmental authority* means an environmental authority under the Environmental Protection Act.’

~~*mining activity* see the Environmental Protection Act, section 110.~~

~~*resource activity* see the Environmental Protection Act, section 107.’.~~

3 ~~Sections~~ **Section 26(6) and 48, ‘(mining lease)—**

omit, insert—

‘for a mining activity relating to a mining lease’.

4 Part 4, division 6, subdivision 1, heading—

~~*omit, insert—*~~

~~**‘Subdivision 1 Relationship for environmental authority for particular resource activities’.**~~

omit.

5 Section 47B—

omit, insert—

‘47B Application of sdiv 1

‘This subdivision applies if the project involves a proposed environmental authority ~~for a resource activity, other than a mining activity,~~ under the Environmental Protection Act.’

6 Part 4, division 6, subdivision 2—

omit, insert—

‘Subdivision 2 Relationship for environmental authority relating to mining lease

‘48 Application of sdiv 2

~~‘This subdivision applies if the project involves a proposed environmental authority for a mining activity relating to a mining lease.~~

‘49 Application of Coordinator-General’s report to environmental authority

~~‘(1) The Coordinator-General’s report may state conditions for any draft environmental authority under the Environmental Protection Act for the proposed environmental authority.~~

~~‘(2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the EPA Minister a copy of the report.’~~

omit.

7 Section 50, ‘chapter 4A or 5’—

omit, insert—

‘chapter 5’.

- | **8 Section 175A(1)(a), '(chapter 5A activities)'—**
omit.

- | **9 Section 175A(2), '~~section 104~~sections 310E and 310V'—**
omit, insert—
'sections 142 and 143,'.

- 10 Schedule 2, definition *environmental authority (mining lease)*, '(mining lease)'—**
omit.

Sustainable Planning Act 2009

- 1 Section 378(4), note—**
omit.

- 2 Section 574(2)—**
omit.

- 3 Schedule 1, item 2, paragraph (a)(xii)—**
omit.

- 4 Schedule 1, item 9, paragraph (a), 'an environmentally relevant activity, or'—**
omit.

5 Schedule 1, item 10—

omit, insert—

'10	Development that is assessable development prescribed under section 232(1) and a material change of use of premises for an environmentally relevant activity, to the extent it involves development in a wild river high preservation area or a wild river special floodplain management area, other than for the following— (a) a sewage ERA under the Environmental Protection Act, section 174(4); (b) a water treatment ERA under the Environmental Protection Act, section 174(4); (c) a dredging ERA; (d) an extraction ERA, if the activity is a low impact activity carried out outside waters and is for specified works, residential complexes, or another commercial, industrial or residential purpose in a designated urban area, in the area; (e) a screening ERA, if the activity is carried out outside waters and is for specified works, or residential complexes, in the area; (f) a crude oil or petroleum product storage ERA, if the activity is for residential complexes in the area and is carried out outside a designated urban area; (g) an exempt prescribed ERA under the Environmental Protection Act, section 174(4), in a designated urban area.'
-----	---

6 Schedule 1, item 11, paragraph (b), 'an environmentally relevant activity, or'—

omit.

7 Schedule 3, definition *chapter 5A activity*—

omit.

8 Schedule 3, definition *mining activity*, 'section 147'—

omit, insert—

'section 110'.

Torres Strait Islander Cultural Heritage Act 2003

- 1 Section 88(6), definition *environmental assessment*, from ‘but’ to ‘1994’—**

omit.

Transport Infrastructure Act 1994

- 1 Section 283ZU(2)(b)—**

omit.

- 2 Section 283ZU(2)(c)—**

renumber as section 283ZU(2)(b).

- 3 Section 283ZU(3)(a), ‘subsection (2)(a) or (b)’—**

omit, insert—

‘subsection (2)(a)’.

- 4 Section 283ZU(3)(b), ‘subsection (2)(c)’—**

omit, insert—

‘subsection (2)(b)’.

- 5 Section 283ZU(4), definition *mobile and temporary environmentally relevant activity*—**

omit.

Waste Reduction and Recycling Act 2011

- | 1 ~~Sections 26~~**Section 27(1)(b)**, ‘a registration certificate’—
 omit, insert—
 ‘an environmental authority’.
- | 2 ~~Section 42~~**Sections 43(1) and (2), 5152(1)(a) and (b),
5758(8) and 100101**, ‘a registration certificate’—
 omit, insert—
 ‘an environmental authority’.
- | 3 ~~Sections 6061(b) and 6162(2)(b)(iii)~~, ‘registration
certificates’—
 omit, insert—
 ‘environmental authorities’.
- | 4 ~~Section 159160(1)(d)~~, ‘a development application under
that Act’—
 omit, insert—
 ‘an application for an environmental authority for a prescribed
ERA under that Act’.
- | 5 ~~Section 159160(1)(d)(ii)~~—
 omit, insert—
 (ii) as if a reference to—
 (A) the administering authority were a reference
 to the chief executive; and
 (B) an application for an environmental authority
 for a prescribed ERA were a reference to an
 application for a specific approval;’.

6 Schedule, definition *registration certificate*—

omit.

7 Schedule—

insert—

‘environmental authority means an environmental authority under the Environmental Protection Act.’.

8 Schedule, definition *small site*, ‘a registration certificate’—

omit, insert—

‘an environmental authority’.

Water Act 2000

1 Section 1065AA(2), ‘section 290A or 292’—

omit, insert—

‘section 215’.

Water Supply (Safety and Reliability) Act 2008

1 Section 325(4)(b)—

omit.

2 Section 325(4)(c) and (d)—

renumber as section 325(4)(b) and (c).

3 Schedule 3, definition *CSG environmental authority*—

omit, insert—

‘*CSG environmental authority* means an environmental authority for a CSG activity issued under the *Environmental Protection Act 1994*.’.

4 Schedule 3, definition *wastewater*, paragraph (b)—

omit, insert—

‘(b) a resource activity as defined under the *Environmental Protection Act 1994*, section 107.’.

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