



Queensland

# North Stradbroke Island Protection and Sustainability Act 2011

Reprinted as in force on 14 April 2011

Reprint No. 1

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# Information about this reprint

This Act is reprinted as at 14 April 2011.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- omit provisions that are no longer required (s 40)
- omit the enacting words (s 42A)
- make all necessary consequential amendments (s 7(1)(k)).

This page is specific to this reprint. A table of reprints is included in the endnotes.

**Also see endnotes for information about when provisions commenced.**

## Spelling

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).

## Dates shown on reprints

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

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# North Stradbroke Island Protection and Sustainability Act 2011

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# North Stradbroke Island Protection and Sustainability Act 2011

[reprinted as in force on 14 April 2011]

**An Act to provide for the ending of mining in the North Stradbroke Island Region, and to amend particular other Acts to provide for indigenous joint management of particular land in the region**

## **Part 1 Preliminary**

### **Division 1 Introduction and object of Act**

#### **1 Short title**

This Act may be cited as the *North Stradbroke Island Protection and Sustainability Act 2011*.

#### **2 Object of Act**

The object of this Act is to substantially end mining interests over land in the North Stradbroke Island Region by the end of 2019, and end mining in the region in 2025—

- (a) to protect and restore environmental values of the region; and
- (b) to facilitate, under other Acts, the staged creation of areas to be jointly managed by the State and the traditional owners of the region.

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### **3 Act binds all persons**

This Act binds all persons including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

## **Division 2 Interpretation**

### **4 Dictionary**

The dictionary in schedule 3 defines particular words used in this Act.

### **5 Meaning of *North Stradbroke Island Region***

- (1) The *North Stradbroke Island Region* is the part of the State shown as 'Area A' and 'Area B' on the map titled 'NSI 1' approved by the chief executive on 18 March 2011 and held by the department.

*Editor's note—*

The map titled 'NSI 1' may be viewed on the department's website at <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

- (2) The exact location of the boundary of the North Stradbroke Island Region is held in digital electronic form by the department.
- (3) The information held in digital electronic form can be reduced or enlarged to show the details of the boundary.

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## **Part 2**                      **Dealing with mining interests in the North Stradbroke Island Region**

### **Division 1**                **General provision**

#### **6**            **No compensation**

No amount, whether as compensation, reimbursement or otherwise, is payable by the State to any person for or in connection with the enactment or operation of this part.

### **Division 2**                **Provisions about mining interests**

#### **7**            **Application of pt 2**

This part applies—

- (a) in relation to an NSI mining interest, including the granting of an NSI mining interest; and
- (b) despite the Mineral Resources Act or any other Act or law.

#### **8**            **Termination of particular NSI mining interests**

- (1) This section applies to an NSI mining interest if, under the Mineral Resources Act, the term of the mining interest would, apart from this section, and unless ended sooner for any reason, end after 31 December 2019.
- (2) This section does not apply to the following mining leases—
  - (a) 1105;
  - (b) 1108;
  - (c) 1109;
  - (d) 1124;

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(e) 7064.

- (3) The term of the NSI mining interest, unless ended sooner for any reason, ends at the end of 31 December 2019, and the mining interest can not at any time be renewed.
- (4) The holder of the NSI mining interest may not at any time apply for a renewal of the mining interest under the Mineral Resources Act after the commencement.

## 9 Termination of mining lease 1109

- (1) The term of mining lease 1109, unless ended sooner for any reason, ends at the end of 31 December 2015, and the lease can not at any time be renewed.
- (2) The holder of mining lease 1109 may not at any time apply for a renewal of the mining lease under the Mineral Resources Act after the commencement.

## 10 Particular NSI mining interests not to be renewed

- (1) An application for renewal of a relevant NSI mining interest made under the Mineral Resources Act but not decided before the commencement—
  - (a) can not be further dealt with under that Act; and
  - (b) is taken to have been withdrawn by the applicant on the commencement.
- (2) The holder of a relevant NSI mining interest may not apply for a renewal of the mining interest under the Mineral Resources Act after the commencement.
- (3) A renewal of a relevant NSI mining interest can not be granted under the Mineral Resources Act.
- (4) In this section—

*holder*, of a relevant NSI mining interest, means the holder of the mining interest under the Mineral Resources Act.

*relevant NSI mining interest* means an NSI mining interest in force on the commencement other than the following—

- 
- (a) an NSI mining interest mentioned in schedule 1, column 1;
  - (b) an NSI mining interest mentioned in schedule 2, column 1;
  - (b) a mining interest to which section 8 or 9 applies.

## **11 Renewal of particular NSI mining leases**

- (1) On the commencement, each mining lease mentioned in schedule 1, column 1 is taken to have been renewed under the Mineral Resources Act.
- (2) The mining lease is renewed—
  - (a) for the term stated opposite the mining lease in schedule 1, column 2; and
  - (b) subject to—
    - (i) each condition stated opposite the mining lease in schedule 1, column 3; and
    - (ii) any condition to which the mining lease was subject immediately before the renewal.
- (3) The renewals have effect as if they were granted by the Governor in Council under the Mineral Resources Act.
- (4) If there is an inconsistency between a condition mentioned in subsection (2)(b)(i) and a condition mentioned in subsection (2)(b)(ii), the condition mentioned in subsection (2)(b)(i) prevails to the extent of the inconsistency.
- (5) A mining lease mentioned in schedule 1, column 1 can not at any time be renewed after the end of the term stated opposite the mining lease in schedule 1, column 2.
- (6) The holder of a mining lease mentioned in schedule 1, column 1 may not at any time apply for a renewal of the mining lease under the Mineral Resources Act after the commencement.
- (7) This section does not limit the application of any provisions of the Mineral Resources Act to the renewed mining lease

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including, for example, provisions about cancelling a mining lease or reducing its area.

- (8) The renewal of each lease does not create any rights in addition to the rights created in the initial granting of the relevant lease.

## **12 Variation of conditions for particular NSI mining leases**

- (1) On the commencement, the conditions of each mining lease mentioned in schedule 2, column 1 are varied as follows—
- (a) the term of the mining lease is varied to be the term stated opposite the mining lease in schedule 2, column 2;
  - (b) from the day the mining lease would have expired apart from this section, the conditions of the mining lease are varied to include each condition stated opposite the mining lease in schedule 2, column 3.
- (2) The variations of the conditions of the mining leases have effect as if they were made by the Governor in Council under the Mineral Resources Act, section 294.
- (3) If there is an inconsistency between a condition mentioned in subsection (1)(b) and a condition to which the mining lease was subject immediately before the variation of the term of the mining lease, the condition mentioned in subsection (1)(b) prevails to the extent of the inconsistency.
- (4) A mining lease mentioned in schedule 2, column 1 can not at any time be renewed after the end of the term stated opposite the mining lease in schedule 2, column 2.
- (5) The holder of a mining lease mentioned in schedule 2, column 1 may not at any time apply for a renewal of the mining lease under the Mineral Resources Act after the commencement.
- (6) This section does not limit the application of any provisions of the Mineral Resources Act to the mining lease as varied by this section including, for example, provisions about cancelling a mining lease or reducing its area.

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- (7) The variation of the conditions of each lease does not create any rights in addition to the rights created in the initial granting of the relevant lease.

### **13 Dealing with applications for grant of NSI mining interest**

- (1) An application for the grant under the Mineral Resources Act of an NSI mining interest made but not decided before the commencement—
- (a) can not be further dealt with under that Act; and
  - (b) is taken to have been withdrawn by the applicant on the commencement.
- (2) A person can not apply under the Mineral Resources Act, the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004* for a grant of an NSI mining interest after the commencement.

### **14 Prohibition on grant of NSI mining interest**

An NSI mining interest can not be granted.

## **Division 3 Provisions about particular environmental authority**

### **15 Purpose of div 3**

The purpose of this division is to provide for the amendment of a particular environmental authority for mining activities on North Stradbroke Island.

### **16 Definitions for div 3**

In this division—

*amendment application* see the Environmental Protection Act, section 238(1).

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*Enterprise Mine lease* means mining lease 1105 or mining lease 1117 under the Mineral Resources Act.

*restricted mine path*, for an Enterprise Mine lease, means the area shown on the map titled ‘NSI 2’ approved by the chief executive on 18 March 2011 and held by the department.

*Editor’s note—*

The map titled ‘NSI 2’ may be viewed on the department’s website at <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

## **17 Statutory conditions of the environmental authority for Enterprise Mine**

Environmental authority MIN100971509 is taken to include the following conditions—

- (a) mining activities that are the winning of a mineral from the place where it occurs may be conducted only within the restricted mine path for an Enterprise Mine lease; and
- (b) mining activities that are the winning of a mineral from the place where it occurs within the restricted mine path for an Enterprise Mine lease may only be conducted until the end of 31 December 2019.

## **18 Application by Enterprise Mine lease holder to amend restricted mine path**

- (1) A holder of an Enterprise Mine lease may apply, within 2 months after commencement, to the Minister to amend the restricted mine path of an Enterprise Mine lease to add an area of land to the restricted mine path.
- (2) The application must be—
  - (a) made in the approved form for an amendment application; and
  - (b) supported by enough information to allow the Minister to decide the application.

## 19 Minister to decide application

- (1) The Minister must, within the period prescribed under the *Environmental Protection Regulation 2008* for an amendment application, decide either to grant or refuse the application.
- (2) However, the Minister may amend the restricted mine path of an Enterprise Mine lease to add an area of land to the restricted mine path only if—
  - (a) the area proposed to be added to the mine path (the ***added area***) is not, or does not include, a threatened ecosystem; and
  - (b) the Minister is satisfied that the addition of the added area is reasonably necessary to facilitate mining at the same rate of production, until 31 December 2019, as the average rate for the Enterprise Mine lease over the two years immediately before commencement; and
  - (c) the mine path, after addition of the added area, is consistent with the conditions applying under environmental authority MIN100971509.

- (3) In this section—

***threatened ecosystem*** means an ecosystem identified in the database known as the ‘Regional ecosystem description database’ kept by the department as one of the following—

- (a) an endangered dominant ecosystem;
- (b) an endangered sub-dominant ecosystem;
- (c) an of concern dominant ecosystem;
- (d) an of concern sub-dominant ecosystem.

*Editor’s note—*

The Regional ecosystem description database is available for inspection—

- (a) during office hours, at the Queensland Herbarium, Brisbane Botanic Gardens, Mt Coot-tha Road, Toowong and each regional office of the department; and
- (b) on the department’s website.

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## **20 Steps after making decision**

- (1) If the Minister decides to grant the application, the Minister must, within 10 business days after the decision is made—
  - (a) amend the environmental authority to give effect to the amendment; and
  - (b) record particulars of the amendment in the appropriate register as if the authority had been amended under the Environmental Protection Act; and
  - (c) give the applicant a copy of the amended environmental authority.
- (2) The amendment takes effect on the day of the amendment or a later day stated in the amended environmental authority.
- (3) If the Minister decides to refuse the application, the Minister must, within 10 business days after the decision is made, give the applicant a written notice about the decision.

## **21 Applications to amend restricted mine path of Enterprise Mine lease under the Environmental Protection Act**

- (1) Sections 17 and 18 do not stop the holder of environmental authority MIN100971509, whether or not amended under section 19, from applying to amend the environmental authority under the Environmental Protection Act, chapter 5, part 8.
- (2) However, an amendment of the environmental authority under the Environmental Protection Act, chapter 5, part 8 can not be made if the amendment would—
  - (a) result in the total area of the restricted mine path being increased in size—
    - (i) if the restricted mine path is amended under section 19—to an area more than 5% larger than the restricted mine path as amended under the section; or
    - (ii) otherwise—to an area more than 5% larger than the restricted mine path as defined in section 16; or

- (b) amend the condition of the environmental authority stated in section 17(b).
- (3) This section applies despite any provision of the Environmental Protection Act or any other Act or law.

## **Part 3                      Miscellaneous**

### **22      Opening and closing of road on DP104026**

- (1) Lot 1 on SP228368 is dedicated to be a road for public use under the *Land Act 1994*.
- (2) The area of land shown as road to be closed on SP228368 is taken to be closed under the *Land Act 1994*.
- (3) This section applies despite any provision of the *Land Act 1994*.

## Schedule 1      Conditions of renewal for particular mining leases

section 11

| Column 1  | Column 2   | Column 3  |
|---|--|---|
| Mining lease  | Term of renewal  | Conditions for renewal  |
| Mining lease 1117   | The term of renewal ends at the end of 31 December 2019. |   |
| Mining leases 1103, 1118, 1119, 1120, 1121, 1129 and 1130 | The term of renewal ends at the end of 31 December 2019. | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |
| Mining lease 1122   | The term of renewal ends at the end of 31 December 2015. | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |
| Mining lease 1124   | The term of renewal ends at the end of 31 October 2025.  | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |

## Schedule 2      Variation of conditions of particular mining leases

section 12

| <b>Column 1</b>     | <b>Column 2</b>  | <b>Column 3</b>   |
|---------------------|--|---|
| <b>Mining lease</b> | <b>Term</b>  | <b>Conditions</b>   |
| Mining lease 1163   | The term for the mining lease is varied to end at the end of 31 December 2019. | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |
| Mining lease 1140   | The term for the mining lease is varied to end at the end of 31 December 2019. | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |
| Mining lease 7064   | The term for the mining lease is varied to end at the end of 31 October 2025.  | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |

## Schedule 3 Dictionary

### section 4

*commencement* means the day this definition commences.

*environmental authority* see the Environmental Protection Act, schedule 4.

*Environmental Protection Act* means the *Environmental Protection Act 1994*.

*Mineral Resources Act* means the *Mineral Resources Act 1989*.

*mining interest* means any lease, licence, permit or other instrument authorised under—

- (a) the Mineral Resources Act; or
- (b) the *Petroleum Act 1923*; or
- (c) the *Petroleum and Gas (Production and Safety) Act 2004*.

*mining lease* means a mining lease under the Mineral Resources Act.

*North Stradbroke Island Region* see section 5.

*NSI mining interest* means a mining interest over land in the North Stradbroke Island Region.

## Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the North Stradbroke Island Protection and Sustainability Act 2011 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

| Key    | Explanation                    | Key     | Explanation                             |
|--------|--------------------------------|---------|---|
| AIA    | = Acts Interpretation Act 1954 | (prev)  | = previously                            |
| amd    | = amended                      | proc    | = proclamation                          |
| amdt   | = amendment                    | prov    | = provision                             |
| ch     | = chapter                      | pt      | = part                                  |
| def    | = definition                   | pubd    | = published                             |
| div    | = division                     | R[X]    | = Reprint No. [X]                       |
| exp    | = expires/expired              | RA      | = Reprints Act 1992                     |
| gaz    | = gazette                      | reloc   | = relocated                             |
| hdg    | = heading                      | renum   | = renumbered                            |
| ins    | = inserted                     | rep     | = repealed                              |
| lap    | = lapsed                       | (retro) | = retrospectively                       |
| notfd  | = notified                     | rv      | = revised edition                       |
| num    | = numbered                     | s       | = section                               |
| o in c | = order in council             | sch     | = schedule                              |
| om     | = omitted                      | sdiv    | = subdivision                           |
| orig   | = original                     | SIA     | = Statutory Instruments Act 1992        |
| p      | = page                         | SIR     | = Statutory Instruments Regulation 2002 |
| para   | = paragraph                    | SL      | = subordinate legislation               |
| prec   | = preceding                    | sub     | = substituted                           |
| pres   | = present                      | unnum   | = unnumbered                            |
| prev   | = previous                     |         |   |

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments included | Effective     | Notes |
|-------------|---------------------|---------------|-------|
| 1           | none                | 14 April 2011 |       |

## 5 List of legislation

### **North Stradbroke Island Protection and Sustainability Act 2011 No. 11**

date of assent 14 April 2011

commenced on date of assent

## 6 List of annotations

### **PART 4—AMENDMENT OF ACTS**

**pt hdg** om R1 (see RA s 40)

#### **Division 1—Amendment of Aboriginal Land Act 1991**

**div 1 (ss 23–29)** om R1 (see RA ss 7(1)(k) and 40)

#### **Division 2—Amendment of Nature Conservation Act 1992**

**div 2 (ss 30–47)** om R1 (see RA ss 7(1)(k) and 40)

#### **Division 3—Amendment of Sustainable Planning Act 2009**

**div 3 (ss 48–50)** om R1 (see RA ss 7(1)(k) and 40)

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