

Queensland



**ENVIRONMENTAL
PROTECTION AND OTHER
LEGISLATION
AMENDMENT ACT 2000**

Act No. 64 of 2000

Queensland



**ENVIRONMENTAL PROTECTION AND
OTHER LEGISLATION AMENDMENT
ACT 2000**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	30
2	Commencement	30
PART 2—AMENDMENT OF ENVIRONMENTAL PROTECTION ACT 1994		
3	Act amended in pt 2 and schedule	31
4	Insertion of new ch 1, pt 3, div 2, sdiv 3A	31
	<i>Subdivision 3A—Environmentally relevant activities</i>	
	17A Meaning of “environmentally relevant activity”	31
	17B Environmentally relevant activity may be prescribed	31
	17C Levels for environmentally relevant activities	32
5	Replacement of s 20 (Effect of Act on other Acts)	32
	20 Relationship with other Acts	32
6	Insertion of new chs 2A–2D	33
CHAPTER 2A—ENVIRONMENTAL IMPACT STATEMENTS		
PART 1—EIS PROCESS		
<i>Division 1—Preliminary</i>		
<i>Subdivision 1—Application</i>		
	34 When EIS process applies	33
<i>Subdivision 2—Definitions for pt 1</i>		
	34AA Who is an “affected person” for a project	34
	34AB Other definitions	36

Subdivision 3—Purposes of EIS

34AC Purposes	37
---------------------	----

Division 2—Terms of reference stage

Subdivision 1—Draft terms of reference

34AD Submission	38
-----------------------	----

Subdivision 2—Public notification of draft terms of reference

34AE Preparation of TOR notice	39
--------------------------------------	----

34AF Public notification	40
--------------------------------	----

34AG Proponent to be given comments	40
---	----

34AH Advice to chief executive	40
--------------------------------------	----

Subdivision 3—Final terms of reference

34AI Finalising terms of reference	41
--	----

Division 3—Submission stage

34AJ When EIS may be submitted	41
--------------------------------------	----

34AK Chief executive may require copies of EIS	42
--	----

34AL Decision on whether EIS may proceed	42
--	----

34AM Ministerial review of refusal to allow to proceed	43
--	----

Division 4—Notification stage

Subdivision 1—Public notice requirements

34AN Public notification	44
--------------------------------	----

34AO Required content of EIS notice	45
---	----

34AP Declaration of compliance	46
--------------------------------------	----

Subdivision 2—Submissions

34AQ Right to make submission	46
-------------------------------------	----

34AR Acceptance of submissions	46
--------------------------------------	----

34AS Response to submissions	47
------------------------------------	----

Division 5—EIS assessment report

34AT EIS assessment report	47
----------------------------------	----

34AU Criteria for preparing report	48
--	----

34AV Required content of report	48
---------------------------------------	----

Division 6—Completion of process

34AW When process is completed	49
<i>Division 7—Miscellaneous provisions</i>	
<i>Subdivision 1—Inquiries by chief executive</i>	
34AX Application of sdiv 1	49
34AY Chief executive may seek advice, comment or information	50
34AZ Disclosure of relevant documents or information	50
34BA Inquiry does not alter process	50
<i>Subdivision 2—Public inspection</i>	
34BC Public access to draft terms of reference or submitted EIS	51
<i>Subdivision 3—Amending EIS</i>	
34BD Amending EIS	51
<i>Subdivision 4—Effects of noncompliance with process</i>	
34BE Process is suspended	52
34BF Substantial compliance with notice requirements may be accepted	52
PART 2—VOLUNTARY PREPARATION OF EIS	
34BG Purpose of pt 2	53
34BH Projects that may be approved for EIS	53
34BI Requirements for application	54
34BJ Deciding application	54
CHAPTER 2B—DEVELOPMENT APPROVALS AND ENVIRONMENTAL AUTHORITIES OTHER THAN FOR MINING ACTIVITIES	
PART 1—PRELIMINARY	
34BK Application of ch 2B	55
34BL Types of environmental authority under ch 2B	55
PART 2—DEVELOPMENT APPROVALS	
<i>Division 1—Assessable development use for Integrated Planning Act</i>	
34BM Development for Integrated Planning Act, sch 8, pt 1, item 6	57
34BN Additional material change of use for Integrated Planning Act	57
<i>Division 2—Assessing development applications</i>	
34BO Application of div 2	58
34BP Assessing development applications	58

34BQ Conditions of development approval	59
<i>Division 3—Effect of issue of certain development approvals</i>	
34BR Development approvals continue to have effect	60
PART 3—ENVIRONMENTAL AUTHORITY APPLICATIONS	
<i>Division 1—Obtaining licence (with development approval)</i>	
34BS Operation of div 1	61
34BT Requirements for application	61
34BU Deciding application	61
34BV Criteria for decision	61
34BW Conditions that may be imposed	62
34BX Steps after granting application	62
<i>Division 2—Obtaining licence (without development approval)</i>	
<i>Subdivision 1—General provisions for obtaining licence</i>	
34BY Operation of sdiv 1	63
34BZ Definitions for sdiv 1	63
34CA Requirements for application	63
34CB Public access to application	64
34CC Public notice of application	64
34CD Required content of application notice	64
34CE Declaration of compliance	65
34CF Substantial compliance may be accepted	65
34CG Right to make submission	66
34CH Acceptance of submissions	66
34CI Deciding application	67
34CJ Criteria for decision	67
34CK Conditions that may and must be imposed	67
34CL Steps after granting application	69
<i>Subdivision 2—Provisional licences</i>	
34CM When provisional licence may be issued	69
34CN Steps after decision to grant provisional licence	70
34CO Term of provisional licence	70

34CP	Reminder notices	71
34CQ	Application for new licence	71
<i>Division 3—Obtaining level 2 approval</i>		
34CR	Operation of div 3	72
34CS	Requirements for application	72
34CT	Deciding application	72
34CU	Criteria for decision	72
34CV	Conditions that may and must be imposed	73
34CW	Steps after granting application	73
<i>Division 4—Miscellaneous provisions</i>		
34CX	When environmental authorities under pt 3 take effect	74
34CY	Term of environmental authority	74
34CZ	Information notice about decision on application	75
PART 4—CONVERSION OF LICENCE TO LEVEL 1 APPROVAL		
<i>Division 1—Conversion applications</i>		
34DA	When conversion application may be made	76
34DB	Requirements for application	76
<i>Division 2—Processing conversion applications</i>		
34DC	Deciding application	77
34DD	Criteria for decision	77
34DE	Conditions of converted environmental authority	78
34DF	Steps after granting application	78
34DG	When conversion takes effect	79
34DH	Information notice about decision on conversion application	79
PART 5—AMENDING ENVIRONMENTAL AUTHORITIES BY APPLICATION		
34DI	Environmental authorities that may be amended by application	80
34DJ	Requirements for amendment application	80
34DK	Public notice may be required for licence amendment	80
34DL	Deciding application	81
34DM	Criteria for decision	82
34DN	Decision on application	82

34DO Steps after making decision	82
34DP When amendment takes effect	82
PART 6—DEALINGS WITH LICENCES	
<i>Division 1—Required notice to proposed transferee</i>	
34DQ Notice of disposal by licence holder	83
<i>Division 2—Transfer of licences (without development approval)</i>	
34DR Transfer only by approval	84
34DS Requirements for transfer application	84
34DT Deciding application	84
34DU Steps after making decision	84
<i>Division 3—Surrender of licences (without development approval)</i>	
34DV Surrender of licence	85
PART 7—AMENDMENT, CANCELLATION OR SUSPENSION OF ENVIRONMENTAL AUTHORITIES BY ADMINISTERING AUTHORITY	
<i>Division 1—Conditions for amendment, cancellation or suspension</i>	
<i>Subdivision 1—Amendments</i>	
34DW Corrections	86
34DX Other amendments	86
<i>Subdivision 2—Cancellation or suspension</i>	
34DY Conditions	87
<i>Division 2—Procedure for amendment without agreement, cancellation or suspension</i>	
34DZ Application of div 2	88
34EA Notice of proposed action	88
34EB Considering representations	89
34EC Decision on proposed action	89
34ED Notice of proposed action decision	90
<i>Division 3—Steps after making decision</i>	
34EE Steps for corrections	91
34EF Steps for amendment by agreement	91
34EG Steps for amendment without agreement or for cancellation or suspension	92

PART 8—MISCELLANEOUS PROVISIONS

34EGA Environmental authorities for new environmentally relevant activities	92
34EH Administering authority may call conference	93
34EI Failure to decide application taken to be refusal	93
34EJ Grounds for refusing application for or to transfer environmental authority	94
34EK No dealings with licence (with development approval) or approval	94
34EL Notice of ceasing activity under certain environmental authorities	95
34EM Death of licence holder	95

CHAPTER 2C—ENVIRONMENTAL AUTHORITIES FOR MINING ACTIVITIES

PART 1—PRELIMINARY

Division 1—Introduction

34EN Purpose of ch 2C	96
---------------------------------	----

Division 2—Key definitions for ch 2C

34EO What is a “mining activity”	96
34EP Types of “environmental authority (mining activities)”	97
34EQ What is a “mining project”	97
34ER What are “application documents”	98

Division 3—Standard mining activities

34ES Standard mining activities	99
---	----

PART 2—GENERAL PROVISIONS FOR OBTAINING ENVIRONMENTAL AUTHORITY (MINING ACTIVITIES)

Division 1—Introduction

34ET Outline of process to obtain environmental authority (mining activities)	100
---	-----

*Division 2—Applications**Subdivision 1—General provisions about applications*

34EU Who may apply	101
34EV General requirements for application	102

<i>Subdivision 2—Applications for mining projects</i>	
34EW Single application required for mining project	103
34EX Single environmental authority required for mining project	104
<i>Subdivision 3—Joint applications</i>	
34EY Application of sdiv 3	104
34EZ Joint application may be made	105
34FA Appointment of principal applicant	105
34FB Effect of appointment	105
<i>Division 3—Assessment level decision for certain applications</i>	
34FC Operation of div 3	106
34FD Assessment level decision	106
34FE Consequence of failure to decide	107
34FF Decision about EIS requirement	107
34FG Ministerial decision about assessment level	107
34FH Notice for non-standard applications	108
PART 3—PROCESSING ENVIRONMENTAL AUTHORITY (PROSPECTING) APPLICATIONS	
34FI Operation of pt 3	109
34FJ Deciding application	109
34FK Consequence of failure to decide	109
34FL Grant of application	109
34FM Notice of refusal	110
PART 4—PROCESSING ENVIRONMENTAL AUTHORITY (MINING CLAIM) APPLICATIONS	
<i>Division 1—Preliminary</i>	
34FN Operation of pt 4	111
<i>Division 2—Decision to refuse or to allow to proceed</i>	
34FO Administering authority may refuse application	111
34FP Notice of refusal	111
<i>Division 3—Draft environmental authority stage</i>	
34FQ Obligation to prepare draft environmental authority	112
34FR Additional conditions may be included	112

Division 4—Public notice, objection and decision stage

34FS Mining lease process under pt 6, divs 6–8 applies 113

**PART 5—PROCESSING ENVIRONMENTAL AUTHORITY
(EXPLORATION) AND ENVIRONMENTAL AUTHORITY (MINERAL
DEVELOPMENT) APPLICATIONS**

Division 1—Preliminary

34FT Operation of pt 5 114

Division 2—Standard applications

34FU Application of div 2 114

34FV Additional conditions may be imposed 114

34FW Deciding application 115

34FX Consequence of failure to decide 116

34FY Grant of application 116

34FZ Notice about refusal or condition decision 117

Division 3—Non-standard applications

Subdivision 1—Preliminary

34GA Application of div 3 117

Subdivision 2—EIS stage

34GB EIS process applies 118

Subdivision 3—Environmental management document stage

34GC Environmental management plan required 118

34GD Purpose of environmental management plan 118

34GE Environmental management plan—content requirements 118

34GF Amending environmental management plan 120

34GG EM plan assessment report may be prepared 120

34GH Requirements for EM plan assessment report 120

Subdivision 4—Decision stage

34GI Deciding application 121

34GJ Grant of application 121

34GK Information notice about refusal or condition decision 122

PART 6—PROCESSING ENVIRONMENTAL AUTHORITY
(MINING LEASE) APPLICATIONS

Division 1—Preliminary

34GL Operation of pt 6 122

34GM Summary of pt 6 process 123

Division 2—EIS stage for non-standard applications

34GN Application of div 2 124

34GO EIS process applies 125

*Division 3—Environmental management document stage for
non-standard applications*

34GP Application of div 3 125

34GQ EMOS required 125

34GR Purpose of EMOS 125

34GS EMOS—content requirements 125

34GT Amending EMOS 127

34GU EMOS assessment report may be prepared 127

34GV Requirements for EMOS assessment report 127

Division 4—Decision to refuse or to allow to proceed

34GW Administering authority may refuse
application 128

Division 5—Draft environmental authority stage

34GX Obligation to prepare draft environmental authority 129

34GY Conditions—standard applications 129

34GZ Conditions—non-standard applications 130

Division 6—Public notice and objections stage for all applications

34HA Public notice of application 131

34HB Required content of application notice 131

34HC Public access to application documents 132

34HD Declaration of compliance 132

34HE Substantial compliance may be accepted 133

34HF Right to make objection 134

34HG Acceptance of objections 134

34HH Amendment or withdrawal of objection 135

*Division 7—Decision stage**Subdivision 1—Referral to tribunal if current objection*

34HI	Referral to tribunal	135
34HJ	Objections decision hearing	136
34HK	Tribunal mediation of objections	136
34HL	Nature of objections decision	137
34HM	Matters to be considered for objections decision	137
34HN	Advice from MRA Minister about objections decision	138
34HO	EPA Minister’s decision on application	138
34HP	Grant of application	139

Subdivision 2—Grant if no current objection at end of objection period or before objections decision

34HQ	Application of sdiv 2	140
34HR	Grant of application on basis of draft environmental authority	140

Division 8—Miscellaneous provisions

34HS	Withdrawing an application	140
34HT	Certain objections apply for later applications	141
34HU	Effects of noncompliance with application process	141

PART 7—PLAN OF OPERATIONS FOR ENVIRONMENTAL AUTHORITY (MINING LEASE)

34HV	Application of pt 7	142
34HW	Plan of operations required before acting under relevant mining lease	142
34HX	Content requirements	143
34HY	Amending or replacing plan	144
34HZ	Environmental authority overrides plan	145

PART 8—AMENDMENT OF AUTHORITIES BY APPLICATION*Division 1—Preliminary*

34IA	Exclusions from amendment under pt 8	145
------	--	-----

Division 2—General provisions for amendment applications

34IB	Who may apply	146
34IC	Additional conditions may be sought for standard authorities	146
34ID	Requirements for application	146

Division 3—Processing amendment applications for standard authorities

34IE	Application of div 3	147
34IF	Deciding application	147
34IG	Consequence of failure to decide	148
34IH	Steps after making decision	148

Division 4—Processing other amendment applications

Subdivision 1—Preliminary

34II	Application of div 4	149
------	--------------------------------	-----

Subdivision 2—Assessment level decision

34IJ	Assessment level and EIS decisions for application	149
34IK	Ministerial decision about assessment level and EIS decisions . . .	149
34IL	Automatic refusal if EIS required	150
34IM	Notice of assessment level decision	151

*Subdivision 3—Process if decision is significant increase in
environmental harm likely and EIS not required*

34IN	Application of sdiv 3	151
34IO	Relevant application process applies	152
34IP	Refusal on ground that replacement environmental authority needed	152
34IQ	Previous environmental management document may be amended	152
34IR	Public notice of application	153
34IS	Objection period	154

*Subdivision 4—Process if decision is significant environmental
harm increase unlikely*

34IT	Application of sdiv 4	154
34IU	Deciding application	154
34IV	Steps after making decision	154

PART 9—TRANSFER OF AUTHORITIES

Division 1—Transfer applications

34IW	Transfer only by approval	155
34IX	Requirements for transfer application	156
34IY	Audit statement may be required	156

Division 2—Processing transfer applications

34IZ	Deciding application	157
34JA	Refusal on ground that amendment required	157
34JB	Steps after making decision	158
34JC	Effect of plan of operations and environmental management documents after transfer	158
34JD	Notice to owners of transfer	159

PART 10—SURRENDER OF AUTHORITIES

Division 1—General provisions for surrender

34JE	Prospecting permit can not be surrendered	159
34JF	Surrender only by approval	159
34JG	Surrender may be partial	159
34JH	When surrender application required	160
34JI	Notice by administering authority to make surrender application . .	161
34JJ	Failure to comply with surrender notice	161

Division 2—Surrender applications

Subdivision 1—Requirements for surrender applications

34JK	Requirements	161
------	------------------------	-----

Subdivision 2—Final rehabilitation reports

34JL	Content requirements for report	162
34JM	Amending report	163
34JN	FRR assessment report may be given	163

Subdivision 3—Processing surrender applications

34JO	Deciding application	163
34JP	Criteria for decision	163
34JQ	Steps after making decision	164

PART 11—ENVIRONMENTAL AUDITS FOR MINING ACTIVITIES

Division 1—Audit requirements

34JR	Administering authority may require environmental audit	165
34JS	Failure to comply with audit notice	166
34JT	Costs of complying with audit notice	166

Division 2—Audits by administering authority

- 34JU Administering authority may conduct environmental audit 166
 34JV Administering authority’s costs of environmental audit or report . . 167

Division 3—Auditors and conduct of environmental audits

- 34JW Appointment of auditors 167
 34JX Appointment conditions and term 167
 34JY Who may conduct environmental audit 168
 34JZ Impersonation of auditor 168

Division 4—Miscellaneous provisions

- 34KA False or misleading information about environmental audits 168

**PART 12—AMENDMENT, CANCELLATION OR SUSPENSION
BY ADMINISTERING AUTHORITY**

Division 1—Conditions for amendment, cancellation or suspension

Subdivision 1—Amendments

- 34KB Corrections 169
 34KC Other amendments—standard authorities 169
 34KD Other amendments—non-standard authorities 170

Subdivision 2—Cancellation or suspension

- 34KE Conditions 172

*Division 2—Procedure for amendment without agreement or for
cancellation or suspension*

- 34KF Application of div 2 173
 34KG Notice of proposed action 173
 34KH Considering representations 174
 34KI Decision on proposed action 174
 34KJ Notice of proposed action decision 175

Division 3—Steps after making decision

- 34KK Steps for corrections 175
 34KL Steps for amendment by agreement 176
 34KM Steps for amendment without agreement or for
cancellation or suspension 176

PART 13—MISCELLANEOUS PROVISIONS

Division 1—Advice from MRA chief executive

34KN Requirement to seek advice from MRA chief executive 177

Division 2—When authorities or transfers take effect

34KO Restrictions on environmental authority or transfer taking effect . . 178

Division 3—General provisions for applications and conditions

34KP Grounds for refusing application for or to transfer
environmental authority 178

34KQ Conditions that may be made 179

34KR Additional conditions override standard environmental
conditions 181

Division 4—Principal holder of authority

34KS Application of div 4 182

34KT Appointment of principal holder 182

34KU Effect of appointment 182

Division 5—Death of authority holder

34KV Personal representative becomes the holder 183

CHAPTER 2D—GENERAL PROVISIONS ABOUT
ENVIRONMENTAL AUTHORITIES

PART 1—INTEGRATED AUTHORITIES

34KW Integrated authority may be issued 183

34KX Requirements for integrated authority application 184

34KY IEMS submission—content requirements 184

34KZ Requirements for integrated authority 185

34LA Effect of issue of integrated authority 185

PART 2—MISCELLANEOUS PROVISIONS

34LB Annual fee and return 185

34LC Reference to environmental authority includes its conditions 186

34LD Effect of Integrated Planning Act, s 6.1.44 186

7 Omission of ch 3, pt 1 (Interpretation) 186

8 Omission of ch 3, pts 3–4C 186

9 Amendment of s 72 (When environmental audit required) 186

10 Amendment of s 73 (When environmental investigation required) 187

11	Amendment of s 76 (Administering authority to consider and act on environmental reports)	187
12	Amendment of s 82 (Administering authority may require draft program)	188
13	Omission of s 86 (Administering authority may require additional information)	188
14	Amendment of s 94A (Application)	188
15	Omission of s 96 (Compliance with program)	189
16	Amendment of s 97 (Effect of compliance with program)	189
17	Amendment of s 109 (When order may be issued)	189
18	Amendment of s 115 (When financial assurance may be required)	189
19	Amendment of s 116 (Person may show cause why financial assurance should not be required)	190
20	Amendment of s 117 (Application for amendment or discharge of financial assurance)	191
21	Amendment of s 118 (Claims on financial assurances)	192
22	Omission of s 118D (Meaning of “owner” for pt 9B)	193
23	Replacement of ch 3, pt 9B, div 5, sdiv 3 (Compliance with site management plan)	193
	<i>Subdivision 3—Restriction on local government approvals and authorities</i>	
	118ZY Approval or authority must not allow contravention of site management plan	193
24	Amendment of s 118ZZF (Removal and disposal of contaminated soil) . .	193
25	Insertion of new s 118ZZG	194
	118ZZG Failure to comply with disposal permit	194
26	Replacement of ch 3, pt 10, hdg (Environmental offences)	194
	CHAPTER 3A—GENERAL ENVIRONMENTAL OFFENCES	
	PART 1—OFFENCES RELATING TO ENVIRONMENTALLY RELEVANT ACTIVITIES	
	<i>Division 1—Offences</i>	
	118ZZH Environmental authority required for level 1 environmentally relevant activity	194
	118ZZI Environmental authority or development approval required for level 2 environmentally relevant activity	195

	118ZZJ New approval required for certain activities if significant change	195
	<i>Division 2—Exemptions</i>	
	118ZZK Special provisions for interstate transporters of controlled waste	196
	PART 2—OFFENCES RELATING TO ENVIRONMENTAL REQUIREMENTS AND DEVELOPMENT APPROVALS	
	<i>Division 1—Environmental authorities</i>	
	118ZZL Contravention of condition of environmental authority	198
	118ZZM Environmental authority holder responsible for ensuring conditions complied with	198
	<i>Division 2—Environmental management programs</i>	
	118ZZN Contravention of program	199
	118ZZO Approval holder responsible for ensuring program complied with	200
	<i>Division 3—Site management plans</i>	
	118ZZP Contravention of plan	200
	<i>Division 4—Development approvals</i>	
	118ZZQ Offence to contravene development condition	201
	PART 3—OFFENCES RELATING TO ENVIRONMENTAL HARM	
27	Amendment of s 119 (Unlawful environmental harm)	201
28	Insertion of new ch 3A, pt 3 hdg	202
	PART 4—OTHER OFFENCES	
29	Amendment of s 135 (Entry of place)	202
30	Amendment of s 136A (Entry of land—preliminary investigation)	203
31	Insertion of new s 136B	203
	136B Entry of land for access	203
32	Amendment of s 138A (Order to enter land to conduct investigation or conduct work)	204
33	Amendment of s 180 (Evidentiary provisions)	205
34	Amendment of s 181 (Special evidentiary provision—environmental nuisance)	206
35	Amendment of s 188 (Notice of defence)	206

36	Replacement of s 198 (Delegation by chief executive)	206
	198 Delegation by chief executive	206
	198A Delegation by other administering executives	207
37	Amendment of s 200 (Dissatisfied person)	207
38	Amendment of s 203 (Stay of operation of original decisions)	209
39	Replacement of ch 6, pt 3, div 3, hdg	210
	<i>Division 3—Appeals</i>	
	<i>Subdivision 1—Appeals to tribunal</i>	
	203A Review decisions subject to tribunal appeal	210
	203B Right of appeal	210
	203C Appeal period	210
	203D Tribunal mediation	210
	203E Nature of appeal	211
	203F Tribunal’s powers for appeal	211
	203G Decision for appeals against refusals under s 34GW	211
	203H Decision for other appeals	211
	<i>Subdivision 2—Appeals to Court</i>	
40	Amendment of s 204 (Who may appeal)	212
41	Replacement of s 213 (Registers)	212
	213 Required registers	212
	213A Keeping of registers	214
42	Amendment of s 214 (Inspection of register)	215
43	Insertion of new s 214A	215
	214A Appropriate fee for copies	215
44	Amendment of s 215 (Approved forms)	216
45	Insertion of new ch 7, pt 1 hdg	216
	PART 1—APPROVAL OF CODES OF PRACTICE AND STANDARD ENVIRONMENTAL CONDITIONS	
46	Insertion of new ss 219AA–219BE	216
	219AA Minister may approve standard environmental conditions	217
	219AB Effect of changes to standard environmental conditions	217

**PART 2—GENERAL PROVISIONS ABOUT APPLICATIONS
AND SUBMISSIONS**

Division 1—Preliminary

219AC Definitions for pt 2	217
--------------------------------------	-----

Division 2—General provisions

219AD What is the “application date” for application or EMP submission	218
219AE Electronic applications and submissions	219
219AF Electronic notices about applications and submissions	219
219AG Extension of decision period	219
219AH Administering authority may seek advice, comment or information	219
219AI Decision criteria are not exhaustive	220
219AJ Publication of decision or document by administering authority . . .	221

Division 3—Investigating suitability

219AK Investigation of applicant suitability or disqualifying events	221
219AL Use of information in suitability report	222
219AM Notice of use of information in suitability report	222
219AN Confidentiality of suitability reports	222
219AO Destruction of suitability reports	223

PART 3—EXEMPTION FROM DISCLOSURE

Division 1—Obtaining disclosure exemption

219AP Who may apply	224
219AQ Requirements for application	224
219AR Deciding application	225
219AS Criteria for decision	225
219AT Exemption may be limited	225
219AU Notice of refusal or decision to limit exemption	225

<i>Division 2—Effects of disclosure exemption</i>	
<i>Subdivision 1—Preliminary</i>	
219AV Application of div 2	226
219AW Meaning of “exempted material” for div 2	226
<i>Subdivision 2—Effects</i>	
219AX Effect on operation of disclosure requirements under Act	226
219AY Effect on administering authority	227
219AZ Effect on officials	227
PART 4—ENTRY TO LAND TO COMPLY WITH ENVIRONMENTAL REQUIREMENT	
219BA Entry orders	228
219BB Procedure for entry under entry order	229
219BC Duty to avoid damage	229
219BD Notice of damage	229
219BE Compensation	230
PART 5—REGULATIONS	
47 Amendment of s 220 (Regulation-making power)	231
48 Replacement of ch 8, hdg (Chapter 8—Repeals, savings, transitional, validations and related provisions)	232
CHAPTER 8—SAVINGS, TRANSITIONAL AND RELATED PROVISIONS	
49 Omission of ch 8, pt 1 (Repeals)	232
50 Replacement of ch 8, pt 2, hdg (Savings and transitional)	232
PART 1—PROVISIONS FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 1997	
51 Omission of ss 235 and 236	232
52 Insertion of new ch 8, pt 2	232
PART 2—PROVISIONS FOR ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT ACT 2000	
<i>Division 1—Preliminary</i>	
239 Definitions for pt 2	233

Division 2—Existing environmental authorities and mining activities

Subdivision 1—Preliminary

240 What is a “condition” of a mining tenement for div 2 234

Subdivision 2—Existing authorities for mining activities

241 Existing authority becomes an environmental authority
(mining activities) 235

242 Conditions of environmental authority 236

*Subdivision 3—Existing mining activities without
environmental authority*

243 New environmental authority (mining activities) for
existing activities 237

244 Conditions of environmental authority 237

Division 3—Unfinished applications

245 Procedure if certificate of application issued and
conditions decided 238

246 Procedure for other unfinished applications 239

Division 4—Transitional authorities for mining activities

Subdivision 1—Preliminary

247 Meaning of “transitional authority” for div 4 240

Subdivision 2—Special provisions for transitional authorities

248 Transitional authority taken to be non-standard 241

249 Limited application of s 118ZZI for transitional authority 241

250 Requirement to apply to amend or surrender transitional
authority 242

251 Notice by administering authority to amend or surrender
transitional authority 243

252 Consequences of failure to comply with reminder notice 243

253 Financial assurance for transitional authority 243

254 Effect of financial assurance on security 244

255 Plan of operations 245

256 Annual fee and return for first year of transitional period 246

257 Anniversary day for certain transitional authorities 247

Subdivision 3—Amendment and consolidation of transitional authorities

258 Conversion to standard authority by application 247

259	Other amendment applications	249
260	Additional grounds for amendment by administering authority	249
261	Ministerial power to amend	250
262	Consolidation of conditions for same mining project	250
	<i>Subdivision 4—Environmental management document requirements</i>	
263	Environmental management document may be required	252
264	Consequence of failure to comply with requirement	253
	<i>Division 5—Transitional provisions other than for mining activities</i>	
265	Application of div 5	253
266	Unfinished applications under existing Act	253
267	Environmental authorities under existing Act	254
	<i>Division 6—Miscellaneous provisions</i>	
268	Requirement to seek advice from MRA chief executive	255
269	Existing Act continues to apply for special agreement Acts	255
270	Transitional regulation-making power for pt 2	256
271	Validation	257
272	Numbering and renumbering of Act	257
53	Replacement of sch 1 (Original decisions)	258
	SCHEDULE 1	
	ORIGINAL DECISIONS	
54	Omission of sch 2 (Acts repealed)	264
55	Amendment of sch 3 (Notifiable activities)	265
56	Amendment of sch 4 (Dictionary)	265
	PART 3—AMENDMENT OF INTEGRATED PLANNING ACT 1997	
57	Act amended in pt 3 and schedule	278
58	Amendment of s 2.6.8 (Minister may proceed straight to designation in certain circumstances)	278
59	Amendment of sch 8 (Assessable, self-assessable and exempt development)	279
	PART 4—AMENDMENT OF MINERAL RESOURCES ACT 1989	
60	Act amended in pt 4	279
61	Amendment of s 5 (Definitions)	279

62	Omission of s 6 (Meaning of “contaminated land”)	284
63	Insertion of new s 6C	284
	6C What is carrying out “improvement restoration”	284
64	Amendment of s 21 (Application for prospecting permit)	284
65	Amendment of s 22 (Reasons for rejection of application to be given) . . .	285
66	Amendment of s 25 (Conditions of prospecting permit)	285
67	Amendment of s 26 (Provision of security)	285
68	Amendment of s 31 (Mining registrar to notify owners of occupied land of grant of parcel prospecting permit)	286
69	Amendment of s 37 (Surrender of prospecting permit)	286
70	Omission of s 45 (Holder of prospecting permit to rehabilitate land)	286
71	Amendment of s 47 (Staying on occupied land)	286
72	Amendment of s 50 (Entitlements under mining claim)	286
73	Amendment of s 61 (Application for grant of mining claim)	287
74	Amendment of s 64 (Certificate of application etc.)	287
75	Insertion of new ss 64A–64D	288
	64A Issue of certificate of public notice	288
	64B Applicant’s obligations for certificate of public notice	289
	64C Declaration of compliance with obligations	290
	64D Continuing obligation to notify	290
76	Amendment of s 72 (Mining registrar to fix hearing date)	290
77	Amendment of s 73 (Rejection of application for grant of mining claim for noncompliance)	291
78	Amendment of s 74 (Grant of mining claim to which no objection is lodged)	291
79	Amendment of s 75 (Mining registrar may refer application for grant of mining claim to tribunal)	292
80	Amendment of s 76 (Reference of application to tribunal if consent of reserve’s owner is not given)	292
81	Amendment of s 80 (Grant of mining claim at instruction of tribunal or with consent of Governor in Council)	292
82	Amendment of s 81 (Conditions of mining claim)	293
83	Amendment of s 82 (Variation of conditions of mining claim)	293
84	Amendment of s 83 (Provision of security)	294

85	Amendment of s 89 (Reasons for rejection of application for grant of mining claim)	294
86	Amendment of s 93 (Renewal of mining claim)	294
87	Amendment of s 94 (Reasons for rejection of application for renewal of mining claim)	295
88	Amendment of s 96 (Assignment etc. of mining claim)	295
89	Amendment of s 105 (Mining other minerals)	295
90	Amendment of s 106 (Contravention by holder of mining claim)	296
91	Amendment of s 107 (Surrender of mining claim)	296
92	Amendment of s 108 (Abandonment of application for mining claim)	297
93	Amendment of s 109 (Rehabilitation of land covered by mining claim)	297
94	Amendment of s 116 (Appeals about mining claim)	298
95	Amendment of s 123 (Property remaining on former mining claim may be sold etc.)	298
96	Amendment of s 129 (Entitlements under exploration permit)	298
97	Amendment of s 133 (Application for exploration permit)	298
98	Amendment of s 137 (Grant of exploration permit)	299
99	Amendment of s 139 (Periodic reduction in land covered by exploration permit for mineral other than coal)	299
100	Amendment of s 140 (Periodic reduction in land covered by exploration permit for coal)	300
101	Amendment of s 141 (Conditions of exploration permit)	300
102	Omission of ss 142 and 143	301
103	Amendment of s 144 (Provision of security)	301
104	Amendment of s 147 (Renewal of exploration permit)	301
105	Amendment of s 151 (Assignment of exploration permit)	301
106	Amendment of s 159 (Abandonment of application for exploration permit)	301
107	Amendment of s 160 (Contravention by holder of exploration permit)	302
108	Amendment of s 161 (Surrender of exploration permit)	302
109	Omission of s 165 (Holder of exploration permit to rehabilitate land)	303
110	Amendment of s 166 (Rehabilitation of land covered by exploration permits)	303

111	Amendment of s 181 (Obligations and entitlements under mineral development licence)	304
112	Amendment of s 183 (Application for mineral development licence)	304
113	Amendment of s 186 (Minister may grant or reject application for mineral development licence)	304
114	Amendment of s 189 (Abandonment of application for mineral development licence)	305
115	Amendment of s 190 (Provision of security)	305
116	Amendment of s 194 (Conditions of mineral development licence)	305
117	Omission of ss 195 and 196	306
118	Amendment of s 197 (Renewal of mineral development licence)	306
119	Amendment of s 198 (Assignment etc. of mineral development licence)	306
120	Amendment of s 208 (Adding other minerals to licence)	307
121	Amendment of s 209 (Contravention by holder of mineral development licence)	307
122	Amendment of s 210 (Surrender of mineral development licence)	307
123	Omission of s 213 (Holder of mineral development licence to rehabilitate land)	308
124	Amendment of s 214 (Rehabilitation of land covered by mineral development licence)	308
125	Amendment of s 230 (Plant remaining on former mineral development licence may be sold etc.)	309
126	Amendment of s 234 (Governor in Council may grant mining lease)	309
127	Amendment of s 235 (Entitlements of holder of mining lease)	310
128	Amendment of s 236 (Entitlement to use sand, gravel and rock)	310
129	Amendment of s 237 (Drilling and other activities on land not included in surface area)	310
130	Amendment of s 245 (Application for grant of mining lease)	311
131	Amendment of s 250 (Rejection of application by mining registrar)	311
132	Amendment of s 252 (Certificate of application etc.)	312
133	Insertion of new ss 252A–252D	312
	252A Issue of certificate of public notice	312
	252B Applicant’s obligations for certificate of public notice	314
	252C Declaration of compliance with obligations	315

	252D Continuing obligation to notify	316
134	Amendment of s 253 (Reissue of certificate of application)	316
135	Amendment of s 260 (Objection to application for grant of mining lease)	316
136	Omission of ss 261–264	317
137	Amendment of s 265 (Mining registrar to fix hearing date)	317
138	Amendment of s 267 (Minister may reject application at any time)	317
139	Amendment of s 268 (Hearing of application for grant of mining lease)	317
140	Omission of s 270A (Minister to approve environmental management overview strategy)	318
141	Amendment of s 271 (Minister to consider recommendation made in respect of application for grant of mining lease)	318
142	Amendment of s 272 (Minister may remit to tribunal for additional evidence)	318
143	Amendment of s 275 (Application for inclusion of surface of land in mining lease)	318
144	Amendment of s 276 (Conditions of mining lease)	319
145	Amendment of s 277 (Provision of security)	319
146	Insertion of new ss 283A and 283B	320
	283A Agreement to amend compensation	320
	283B Review of compensation by tribunal	321
147	Amendment of s 286 (Renewal of mining lease)	322
148	Replacement of s 287 (Reasons for rejection of application for renewal of mining lease)	322
	287 Notice of rejection of renewal application	322
149	Omission of ss 291–293	322
150	Amendment of s 294 (Variation of conditions of mining lease)	322
151	Amendment of s 298 (Mining other minerals or use for other purposes)	323
152	Amendment of s 299 (Consolidation of mining leases)	323
153	Amendment of s 300 (Assignment etc. of mining lease or application therefor)	324
154	Amendment of s 307 (Abandonment of application for the grant of a mining lease)	324
155	Amendment of s 308 (Contravention by holder of mining lease)	325

156	Amendment of s 309 (Surrender of mining lease)	325
157	Amendment of s 314 (Property remaining on former mining lease may be sold)	326
158	Amendment of s 315 (Approval of additional activities upon mining lease application)	326
159	Amendment of s 318 (Rehabilitation of land covered by mining lease) . .	328
161	Amendment of s 343 (Seizure of minerals produced by or vehicles, machinery etc. used in unauthorised mining)	329
162	Amendment of s 363 (Substantive jurisdiction)	329
163	Insertion of new s 391A	330
	391A Restriction on decisions or recommendations about mining tenements	330
164	Amendment of s 416A (Approval of forms)	330
165	Amendment of s 417 (Regulations)	330
166	Amendment of s 669 (Referral of proposed mining lease to tribunal)	331
167	Insertion of new pt 19, div 3	331
	<i>Division 3—Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2000</i>	
	735 Existing Act continues to apply for special agreement Acts	331
	736 Amendment of EMOS after grant of particular mining leases and before amending Act	333
168	Insertion of schedule	333
	SCHEDULE	
	DICTIONARY	
	PART 5—AMENDMENT OF NATURE CONSERVATION ACT 1992	
169	Act amended in pt 5	334
170	Amendment of s 39B (Chief executive may require EIS)	334
	PART 6—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994	
171	Act amended in pt 6	335
172	Amendment of s 233 (Continuation of certain by-laws and provisions of Harbours Act)	335
173	Amendment of s 236 (Continuation of certain provisions of Harbours Act requiring approval for certain matters)	335

PART 7—MINOR AMENDMENTS OF ACTS

174	Acts amended in schedule	335
	SCHEDULE	336
	MINOR AMENDMENTS	
	ENVIRONMENTAL PROTECTION ACT 1994	336
	INTEGRATED PLANNING ACT 1997	345
	MINERAL RESOURCES ACT 1989	347

Queensland



**Environmental Protection and Other
Legislation Amendment Act 2000**

Act No. 64 of 2000

**An Act to amend the *Environmental Protection Act 1994* and the
Mineral Resources Act 1989, and for other purposes**

[Assented to 24 November 2000]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Environmental Protection and Other Legislation Amendment Act 2000*.

Commencement

2.(1) The following provisions commence on assent—

- (a) section 46, to the extent it inserts the *Environmental Protection Act 1994*, section 219AA;
- (b) section 47;
- (c) section 56;
- (d) section 146;
- (e) section 167, to the extent it inserts the *Mineral Resources Act 1989*, part 19, division 3, heading, and section 736.¹

(2) The remaining provisions of this Act commence on a day to be fixed by proclamation.

¹ Sections 46 (Insertion of new ss 219AA–219BE), 47 (Amendment of s 220 (Regulation-making power)), 56 (Amendment of sch 4 (Dictionary)), 146 (Insertion of new ss 283A and 283B) and 167 (Insertion of new pt 19, div 3)

PART 2—AMENDMENT OF ENVIRONMENTAL PROTECTION ACT 1994

Act amended in pt 2 and schedule

3.(1) This part amends the *Environmental Protection Act 1994*.

(2) The schedule also includes amendments of the *Environmental Protection Act 1994*.

Insertion of new ch 1, pt 3, div 2, sdiv 3A

4. After section 17—

insert—

‘Subdivision 3A—Environmentally relevant activities

‘Meaning of “environmentally relevant activity”

‘17A. An **“environmentally relevant activity”** means—

- (a) a mining activity;² or
- (b) another activity prescribed under section 17B as an environmentally relevant activity.

‘Environmentally relevant activity may be prescribed

‘17B. A regulation may prescribe an activity, other than a mining activity, as an environmentally relevant activity if the Governor in Council is satisfied—

- (a) a contaminant will or may be released into the environment when the activity is carried out; and
- (b) the release of the contaminant will or may cause environmental harm.

² See section 34EO (What is a “mining activity”).

‘Levels for environmentally relevant activities

‘**17C.(1)** An environmentally relevant activity, other than a mining activity, must be prescribed under a regulation as a level 1 or level 2 environmentally relevant activity, depending on the risk of environmental harm.

‘**(2)** A standard mining activity is a level 2 environmentally relevant activity.

‘**(3)** A mining activity other than standard mining activity is a level 1 environmentally relevant activity.’.

Replacement of s 20 (Effect of Act on other Acts)

5. Section 20—

omit, insert—

‘Relationship with other Acts

‘**20.(1)** This Act is in addition to, and does not limit, any other Act.

‘**(2)** If this Act conflicts with an Act as follows, that Act prevails, but only to the extent of the conflict—

- *Ambulance Service Act 1991*
- *Fire and Rescue Authority Act 1990*
- *Radiation Safety Act 1999*
- *State Counter-Disaster Organisation Act 1975*
- *Transport Operations (Marine Pollution) Act 1995.’.*

Insertion of new chs 2A–2D

6. After chapter 2—

insert—

‘CHAPTER 2A—ENVIRONMENTAL IMPACT STATEMENTS

‘PART 1—EIS PROCESS

‘Division 1—Preliminary

‘Subdivision 1—Application

‘When EIS process applies

‘34.(1) This part applies for a project if—

- (a) an EIS requirement is in force in relation to an application for an environmental authority (mining activities) and a relevant mining activity for the application is, or is part of, the project; or
- (b) an EIS has been required for the project under an Act as follows for which it has, under the Act, been decided or required that this part applies to the preparation of the EIS—
 - (i) the Commonwealth Environment Act;
 - (ii) the State Development Act;³
 - (iii) another State Act or another Commonwealth Act; or
- (c) the voluntary preparation of an EIS for the project has been approved under part 2;⁴ or

³ See the State Development Act, part 4, divisions 2 (Significant project) and 3 (EIS process).

⁴ Part 2 (Voluntary preparation of EIS)

- (d) the project is of a type prescribed under a regulation for which approval by a Commonwealth or State authority is required.

‘(2) However, an EIS under this Act can not be used for making a decision under the Integrated Planning Act, other than a decision in relation to a project mentioned in subsection (1)(a).

‘(3) In this section—

“**authority**”, for the Commonwealth, includes the Minister of the Commonwealth for the time being administering the Commonwealth Environment Act.

“**EIS**” includes a statement, however called, that is similar to an EIS.

“**project**” includes—

- (a) a development or proposed development; and
- (b) an action or proposed action; and
- (c) a plan or policy.

Subdivision 2—Definitions for pt 1

‘Who is an “affected person” for a project

‘34AA.(1) A person is an “**affected person**” for a project if the person is—

- (a) a person mentioned in subsection (2) for the operational land or any land joining it; or
- (b) any of the following under the *Native Title Act 1993* (Cwlth) for the operational land or for an area that includes any of the land—
 - (i) a registered native title body corporate;
 - (ii) a registered native title claimant;
 - (iii) a representative Aboriginal/Torres Strait Islander body; or
- (c) a relevant local government for the operational land.

‘(2) For subsection (1)(a), the persons are as follows—

-
- (a) for freehold land—a registered proprietor;
 - (b) for land that is held from the State for an estate or interest less than fee simple and for which the interest is recorded in a register mentioned in the *Land Act 1994* (“**Land Act**”), section 276⁵—a person recorded in the register as the registered holder of the interest;
 - (c) for land subject to a mining claim, mineral development licence or mining lease—a holder of, or an applicant for, the tenement;
 - (d) for land subject to an authority to prospect or a lease or licence under the *Petroleum Act 1923*—
 - (i) a holder of the authority; or
 - (ii) a lessee under the lease; or
 - (iii) a licensee under the licence;
 - (e) for land under the Land Act or the *Nature Conservation Act 1992* (“**NCA**”) for which there are trustees—a trustee of the land;
 - (f) for Aboriginal land under the *Aboriginal Land Act 1991* (“**ALA**”) that is taken to be a reserve because of section 87(2) or 87(4)(b)⁶ of that Act—a grantee of the land;
 - (g) for DOGIT land under the ALA or the *Torres Strait Islander Land Act 1991*—a trustee for the land;
 - (h) for land held under a lease under the *Local Government (Aboriginal Lands) Act 1978*, section 6⁷—a relevant local government;
 - (i) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 84(2) or 84(4)(b)⁸ of that Act—a grantee of the land;

⁵ *Land Act 1994*, section 276 (Registers to be kept by chief executive)

⁶ *Aboriginal Land Act 1991*, section 87 (Application of Mineral Resources Act)

⁷ *Local Government (Aboriginal Lands) Act 1978*, section 6 (Grant of leases to councils)

⁸ *Torres Strait Islander Land Act 1991*, section 84 (Application of Mineral Resources Act)

- (j) for land under a lease from the State under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* that has been excised from land granted in trust for Aboriginal or Torres Strait Islander purposes under the Land Act—a trustee of the land;
- (k) for land that is any of the following, the State—
 - (i) unallocated State land;
 - (ii) a reserve under the Land Act for which there is no trustee;
 - (iii) a national park, national park (Aboriginal land), national park (scientific), national park (Torres Strait Islander land), national park (recovery) or forest reserve under the NCA;
 - (iv) a conservation park under the NCA for which there are no trustees;
 - (v) a State forest or timber reserve under the *Forestry Act 1959*;
 - (vi) a State controlled road under the *Transport Infrastructure Act 1994*;
 - (vii) a fish habitat area under the *Fisheries Act 1994*.
- (l) another person prescribed under a regulation.

‘Other definitions

‘34AB. In this part—

“business days” does not include a business day between 20 December and 5 January in the following year.

“comment period”, for an EIS, means the comment period for the EIS under section 34AE(2)(e) and (3) or section 34BF(3)(b)(i).

“draft terms of reference”, for an EIS, means draft terms of reference submitted under section 34AD.

“environmental management plan” means—

- (a) an environmental management document; or
- (b) another document, however called, that proposes conditions and mechanisms to manage the potential environmental impact of the

project.

“final terms of reference”, for an EIS, means the final terms of reference for the EIS published under section 34AI.

“interested person” means an interested person proposed by the proponent under section 34AD(3)(b).

“operational land” means the land on which the project is to be carried out.

“person” includes a body of persons, whether incorporated or unincorporated.

“properly made submission” see section 34AR(2).

“proponent” means the person who proposes the project to which this part applies.

“submission period”, for an EIS, means—

- (a) the submission period for the EIS under section 34AO(1)(e) and (2); or
- (b) if section 34BF applies—any new submission period fixed under section 34BF(3)(b)(ii).

‘Subdivision 3—Purposes of EIS

‘Purposes

‘34AC. The purposes of an EIS are as follows—

- (a) to assess—
 - (i) the potential adverse and beneficial environmental, economic and social impacts of the project; and
 - (ii) management, monitoring, planning and other measures proposed to minimise any adverse environmental impacts of the project;
- (b) to consider feasible alternative ways to carry out the project;
- (c) to give enough information about the matters mentioned in

paragraphs (a) and (b) to the proponent, Commonwealth and State authorities and the public;

- (d) to prepare or propose an environmental management plan for the project;
- (e) to help the administering authority decide an environmental authority application for which the EIS is required;
- (f) to give information to other Commonwealth and State authorities to help them make informed decisions;
- (g) to meet any assessment requirements under—
 - (i) the Commonwealth Environment Act for a project that is, or includes, a controlled action under that Act; or
 - (ii) a bilateral agreement;⁹
- (h) to allow the State to meet its obligations under a bilateral agreement.

Division 2—Terms of reference stage

Subdivision 1—Draft terms of reference

Submission

34AD.(1) The proponent must submit to the chief executive draft terms of reference for the EIS that allow the purposes of the EIS to be achieved for the project.

(2) The submitted draft must—

- (a) be in the approved form; and

⁹ For what is a “controlled action” under the Commonwealth Environment Act, see section 67 (What is a controlled action?) of that Act. For assessment requirements of controlled actions, see the Commonwealth Environment Act, chapter 4, part 8 (Assessing impacts of controlled actions). For bilateral agreements, see the Commonwealth Environment Act, chapter 3 (Bilateral agreements).

- (b) be accompanied by the fee prescribed under a regulation; and
- (c) include any matter prescribed under a regulation.

‘(3) Also, if an approval has not been given under part 2¹⁰ for the project, the submitted draft must be accompanied by the following—

- (a) a written description of the project and the operational land;
- (b) a list stating the name and address of each person the proponent proposes as an interested person for the project;
- (c) a statement of how the proponent proposes to consult with the interested persons;
- (d) a list of the names and addresses of the affected persons for the project.

‘Subdivision 2—Public notification of draft terms of reference

‘Preparation of TOR notice

‘**34AE.(1)** The chief executive must, within 15 business days after the draft terms of reference are submitted, give the proponent written notice about the draft (the “**TOR notice**”) for public notification.

‘(2) The notice must state the following—

- (a) a description of the project and the operational land;
- (b) that the proponent has prepared draft terms of reference for the EIS;
- (c) where or how the draft may be obtained;¹¹
- (d) that anyone may make written comments to the chief executive about the draft;
- (e) a period decided by the chief executive (the “**comment period**”) during which comments may be made;

¹⁰ Part 2 (Voluntary preparation of EIS)

¹¹ See section 34BC (Public access to draft terms of reference or submitted EIS).

(f) another matter prescribed under a regulation.

‘(3) The comment period must not end before 30 business days after the notice is published.

‘Public notification

‘**34AF.(1)** The chief executive must publish the TOR notice within 5 business days after giving it to the proponent.¹²

‘(2) The proponent must, if asked by the chief executive, pay the chief executive’s reasonable costs incurred in publishing the notice.

‘(3) The proponent must, within the 5 business days, give a copy of the notice to—

- (a) each affected person for the project; and
- (b) each interested person; and
- (c) any other person decided by the chief executive.

‘(4) The chief executive may decide another person for subsection (3)(c) only by giving the proponent an information notice about the decision before the notice is published.

‘Proponent to be given comments

‘**34AG.** The chief executive must, within 10 business days after the comment period ends, give the proponent a copy of all comments received by the chief executive within the period.

‘Advice to chief executive

‘**34AH.** The proponent must, within the period prescribed under a regulation, give the chief executive—

- (a) a written summary of the comments; and
- (b) a statement of the proponent’s response to the comments; and

¹² See section 219AJ (Publication of decision or document by administering authority).

- (c) any amendments of the draft terms of reference the proponent proposes because of the comments.

Subdivision 3—Final terms of reference

Finalising terms of reference

34AI.(1) The chief executive must, within the period prescribed under a regulation, do the following—

- (a) consider the documents mentioned in section 34AH;
- (b) prepare the final terms of reference;
- (c) give the proponent a copy of the final terms of reference;
- (d) publish the final terms of reference.

(2) The proponent must, if asked by the chief executive, pay the chief executive's reasonable costs incurred in publishing the final terms of reference.

Division 3—Submission stage

When EIS may be submitted

34AJ.(1) The proponent may submit the EIS to the chief executive only within—

- (a) 2 years after the final terms of reference are given to the proponent; or
- (b) any longer period decided by the chief executive before or after the 2 years ends.

(2) If an EIS is not submitted under subsection (1)—

- (a) the final terms of reference cease to have effect; and

- (b) division 2¹³ must be complied with again before the EIS may be submitted.

‘Chief executive may require copies of EIS

‘34AK.(1) The chief executive may, at any time before the submission period ends, by written notice require the proponent to give the chief executive a stated number of copies of the submitted EIS that the chief executive reasonably requires.

‘(2) The notice may require—

- (a) the copies to be in hard copy form or in an electronic form or forms; and
- (b) a stated part of the stated number to be given in hard copy form and a stated part of the number to be given in an electronic form or forms.

‘Decision on whether EIS may proceed

‘34AL.(1) The chief executive must, within the period prescribed under a regulation, consider the submitted EIS and decide whether to allow it to proceed under divisions 4 to 6.¹⁴

‘(2) The chief executive may allow the EIS to proceed only if the chief executive considers it addresses the final terms of reference in an acceptable form.

‘(3) If the decision is to allow the EIS to proceed, the chief executive may also fix the submission period for the EIS.

‘(4) However, the period fixed must be at least 20 business days and must end at least 20 business days after the EIS notice is published.

‘(5) The chief executive must, within 10 business days after the decision is made, give the proponent written notice of the decision and of any

¹³ Division 2 (Terms of reference stage)

¹⁴ Divisions 4 (Notification stage), 5 (EIS assessment report) and 6 (Completion of process)

submission period fixed.

‘(6) If the decision is to refuse to allow the EIS to proceed, the notice must also state—

- (a) the reasons for the decision; and
- (b) that the proponent may, under section 34AM, apply to the Minister to review the decision; and
- (c) how to apply for a review.

‘**Ministerial review of refusal to allow to proceed**

‘**34AM.(1)** If the chief executive decides to refuse to allow the EIS to proceed, the proponent may, by written notice, apply to the Minister to review the decision.

‘(2) The notice must—

- (a) state why the proponent considers the EIS should be allowed to proceed; and
- (b) be given within 10 business days after the proponent receives a notice under section 34AL(6) about the decision.

‘(3) However, the Minister may, at any time, extend the time for giving the notice.

‘(4) In reviewing the decision, the Minister—

- (a) has the same powers as the chief executive; and
- (b) may confirm the chief executive’s decision or decide to allow the EIS to proceed under divisions 4 to 6.

‘(5) If the Minister decides to allow the EIS to proceed, the decision is taken for this part to be the chief executive’s decision.

‘(6) If the Minister decides to confirm the chief executive’s decision—

- (a) the decision is taken for this part, other than for section 34AL(6) and this section, to be the chief executive’s decision; and

-
- (b) the chief executive must, within 10 business days after the decision is made, give the proponent written notice of the decision and the reasons for it.

‘Division 4—Notification stage

‘Subdivision 1—Public notice requirements

‘Public notification

‘34AN.(1) This section applies if the chief executive has given the proponent a notice, under section 34AL(5), that the EIS may proceed under this division and divisions 5 and 6.¹⁵

‘(2) Within 20 business days after the giving of the notice, the proponent must—

- (a) give written notice about the EIS (the **“EIS notice”**) to—
- (i) each affected person for the project; and
 - (ii) each interested person; and
 - (iii) any other person decided by the chief executive; and
- (b) publish the EIS notice—
- (i) at least once in a newspaper circulating in the locality of the operational land; and
 - (ii) in another way prescribed under a regulation or decided by the chief executive.

¹⁵ Divisions 5 (EIS assessment report) and 6 (Completion of process)

‘(3) The chief executive may decide another person for subsection (2)(a)(iii) or another way of publishing the EIS notice for subsection (2)(b)(ii) only by giving the proponent an information notice about the decision before the notice is published.

‘(4) This section is subject to section 34BF.¹⁶

‘Required content of EIS notice

‘**34AO.(1)** The EIS notice must be in the approved form and state the following—

- (a) a description of the project and the operational land;
- (b) where the submitted EIS may be inspected;¹⁷
- (c) where copies of, or extracts from, the submitted EIS may be obtained;¹⁸
- (d) that anyone may make a submission to the chief executive about the submitted EIS;
- (e) the period (the “**submission period**”) during which submissions may be made;
- (f) how to make a properly made submission;
- (g) another matter prescribed under a regulation.

‘(2) The submission period must be at least 20 business days and must end after the later of the following to end—

- (a) any submission period fixed by the chief executive under section 34AL(3) before the notice is published under section 34AN(2)(b);
- (b) 20 business days after the publication.

¹⁶ Section 34BF (Substantial compliance with notice requirements may be accepted)

¹⁷ See sections 34BC (Public access to draft terms of reference or submitted EIS), 213 (Required registers) and 214 (Inspection of register).

¹⁸ See sections 213 (Required registers) and 214 (Inspection of register).

‘Declaration of compliance

‘34AP.(1) The proponent must, within 10 business days after the EIS notice is published, give the chief executive a statutory declaration declaring—

- (a) whether or not the proponent has complied with the notice requirements under sections 34AN and 34AO; and
- (b) the name and address of each person to whom the EIS notice was given under section 34AN.

‘(2) A copy of the EIS notice must be attached to the declaration.

‘(3) The proponent is taken to have complied with the requirements if—

- (a) a declaration is given under this section; and
- (b) the declaration states the proponent has complied with the notice requirements.¹⁹

‘Subdivision 2—Submissions**‘Right to make submission**

‘34AQ. A person may, within the submission period, make a submission to the chief executive about the submitted EIS.

‘Acceptance of submissions

‘34AR.(1) The chief executive must accept a submission if it—

- (a) is written; and
- (b) is signed by or for each person (“**signatory**”) who made the submission; and
- (c) states the name and address of each signatory; and

¹⁹ For what happens if the declaration states the requirements have not been complied with, see section 34BF (Substantial compliance with notice requirements may be accepted).

(d) is made to the chief executive; and

(e) is received on or before the last day of the submission period.

‘(2) A submission that complies with subsection (1) is called a **“properly made submission”**’.

‘(3) The chief executive may accept a written submission even if it is not a properly made submission.’

‘Response to submissions

‘**34AS.(1)** The chief executive must, within 10 business days after the submission period ends, give the proponent a copy of all submissions accepted by the chief executive.

‘(2) The proponent must, within the relevant period, consider the submissions and give the chief executive—

(a) a summary of the submissions; and

(b) a statement of the proponent’s response to the submissions; and

(c) any amendments of the submitted EIS because of the submissions.

‘(3) In this section—

“relevant period” means the later of the following periods to end—

(a) 20 business days after the proponent is given a copy of all submissions accepted by the chief executive;

(b) if the chief executive and the proponent have, within the 20 business days, agreed to a longer period—the longer period.

‘Division 5—EIS assessment report

‘EIS assessment report

‘**34AT.** The chief executive must give the proponent a report (an **“EIS assessment report”**) about the submitted EIS—

(a) if no EIS amendment notice is given for the EIS within

30 business days after the submission period ends—10 business days after the end of the 30 days; or

- (b) if an EIS amendment notice is given for the EIS within the 30 business days—within 30 business days after the notice is given; or
- (c) if the chief executive and the proponent have, within the 30 business days, agreed to a longer period—the longer period.²⁰

‘Criteria for preparing report

‘34AU. In preparing an EIS assessment report, the chief executive must consider the following—

- (a) the final terms of reference for the EIS;
- (b) the submitted EIS;
- (c) all properly made submissions and any other submissions accepted by the chief executive;
- (d) the standard criteria;
- (e) another matter prescribed under a regulation.

‘Required content of report

‘34AV. An EIS assessment report must—

- (a) address the adequacy of the EIS in addressing the final terms of reference; and
- (b) address the adequacy of any environmental management plan for the project; and
- (c) make recommendations about the suitability of the project; and

²⁰ For public inspection of the EIS assessment report, see sections 213 (Required registers) and 214 (Inspection of register).

-
- (d) recommend any conditions on which any approval required for the project may be given; and
 - (e) contain another matter prescribed under a regulation.

Division 6—Completion of process

‘When process is completed

‘34AW.(1) The process under this part is completed for an EIS when the proponent is given an EIS assessment report for the EIS.

‘(2) Also, the process is taken to have been completed if—

- (a) an EIS or a similar statement, however called, has been—
 - (i) finalised under the Commonwealth Environment Act, section 104(1);²¹ or
 - (ii) completed under another Commonwealth Act or a State Act; and
- (b) the chief executive decides the process under this part has been complied with, or substantially complied with, for the EIS or statement.

Division 7—Miscellaneous provisions

Subdivision 1—Inquiries by chief executive

‘Application of sdiv 1

‘34AX. This subdivision applies during—

²¹ The Commonwealth Environment Act, section 104 (Finalising draft environmental impact statement)

- (a) any stage under divisions 2 to 6;²² and
- (b) the taking of a step or the making of a decision within any stage under divisions 2 to 6.

Examples of when subdivision applies—

1. When the chief executive is preparing the final terms of reference.
2. When the proponent is preparing the EIS.
3. When the administering authority is preparing an EIS assessment report.

‘Chief executive may seek advice, comment or information

‘34AY.(1) The chief executive may seek and consider relevant advice, comment or information from the proponent or another person.

‘(2) The request may be by public notice.

‘Disclosure of relevant documents or information

‘34AZ. The chief executive may give anyone a document or information if it—

- (a) is mentioned in this part, required to be given to the chief executive under this part or relates to the project or to the process under this part; and
- (b) is not subject to a disclosure exemption.

‘Inquiry does not alter process

‘34BA. Asking for and receiving, or giving, a document or advice, comment or information under this subdivision does not—

- (a) replace any public notice or other stage or step required under divisions 2 to 6; or
- (b) extend or reduce the period required to take a step or make a decision under divisions 2 to 6.

²² Divisions 2 (Terms of reference stage), 3 (Submission stage), 4 (Notification stage), 5 (EIS assessment report) and 6 (Completion of process)

‘Subdivision 2—Public inspection

‘Public access to draft terms of reference or submitted EIS

‘34BC. If a person asks the proponent for a copy of the draft terms of reference for an EIS or the submitted EIS, the proponent must, on payment of the appropriate fee to the proponent, give the person the copy.²³

‘Subdivision 3—Amending EIS

‘Amending EIS

‘34BD.(1) The proponent may amend or replace the submitted EIS (the **“original EIS”**)—

- (a) for an EIS for an environmental authority (mining activities) application—at any time before the chief executive gives a draft environmental authority for the application;²⁴ or
- (b) otherwise—at any time before the EIS assessment report is given to the proponent.

‘(2) However, the submitted EIS can not be amended during the submission period for the EIS.

‘(3) Also, an amendment may be made only by giving the chief executive written notice of the amendment (an **“EIS amendment notice”**).

‘(4) An EIS amendment notice must be accompanied by the fee prescribed under a regulation.

‘(5) The submitted EIS is taken to be the original EIS, as amended from time to time by an EIS amendment notice given for the original EIS.

²³ See also sections 213 (Required registers) and 214 (Inspection of register). For the appropriate fee, see section 214A (Appropriate fee for copies).

²⁴ See chapter 2C, part 6, division 5 (Draft environmental authority stage).

‘Subdivision 4—Effects of noncompliance with process

‘Process is suspended

‘34BE.(1) This section applies if the proponent—

- (a) does not comply with a requirement of this part for an EIS; or
- (b) becomes entitled to take the next step under the process under this part and has not taken the step.

‘(2) The following are suspended until the requirement is complied with or the step is taken—

- (a) the process under this part for the EIS;
- (b) any obligations of the chief executive under this part for the EIS.

‘(3) The proponent’s draft terms of reference or submitted EIS lapse on the later of the following days if the requirement has not been complied with or the step has not been taken—

- (a) the first anniversary of the suspension;
- (b) if the chief executive and the proponent have, before the first anniversary, agreed to a later day—the later day.

‘(4) This section is subject to sections 34AJ and 34BF.

‘Substantial compliance with notice requirements may be accepted

‘34BF.(1) If the proponent has not complied with the notice requirements under division 2, subdivision 2 or division 4, subdivision 1,²⁵ the chief executive must decide whether to allow the EIS to proceed under this part as if the noncompliance had not happened.

‘(2) The chief executive may decide to allow the EIS to proceed only if the chief executive is satisfied there has been substantial compliance with the requirements.

‘(3) If the chief executive decides not to allow the EIS to proceed, the

²⁵ Division 2, subdivision 2 (Public notification of draft terms of reference) or division 4, subdivision 1 (Public notice requirements)

chief executive must, within 10 business days after the decision is made—

- (a) fix a new period for compliance with the requirements (the “**new notice period**”); and
- (b) either fix—
 - (i) if the noncompliance was with division 2, subdivision 2—a new comment period; or
 - (ii) if the noncompliance was with division 4, subdivision 1—a new submission period; and
- (c) give the proponent an information notice about the decision not to allow the EIS to proceed and the decision about the new notice period.

‘(4) The information notice must state the new notice period and the new comment or submission period.

‘(5) The new notice period applies despite the period for giving the notice under section 34AF(3) or 34AN(2).

‘PART 2—VOLUNTARY PREPARATION OF EIS

‘Purpose of pt 2

‘**34BG.(1)** The purpose of this part is to allow the proponent for a project to voluntarily prepare an EIS for the project by using the process under part 1, if it is appropriate to do so.

‘(2) The purpose is achieved by providing for an approval process for the voluntary preparation of an EIS.

‘Projects that may be approved for EIS

‘**34BH.(1)** The proponent for a project may apply to the chief executive for approval to prepare an EIS for a project.

‘(2) However, an application can not be made for a project if—

- (a) an EIS requirement is in force for an application under this Act relating to the project; or
- (b) the Commonwealth Environment Act requires the project to be assessed under chapter 4, part 8 of that Act and the process under part 1 of this chapter has not been decided as an accredited process under the Commonwealth Environment Act;²⁶ or
- (c) an EIS or similar statement, however called, must be prepared for the project under another State Act and that Act does not allow the EIS or statement to be prepared under part 1.

‘Requirements for application

‘34BI. An approval application must be—

- (a) in the approved form; and
- (b) supported by enough information to allow the chief executive to decide whether an EIS is appropriate for the project; and
- (c) supported by enough documents or information to establish that the applicant may enter land to which the project relates to carry out any necessary studies for the EIS; and
- (d) accompanied by—
 - (i) the documents that, under section 34AD(3), must accompany a submitted draft terms of reference for an EIS; and
 - (ii) the fee prescribed under a regulation.

‘Deciding application

‘34BJ.(1) The chief executive must consider the application and decide either to grant or refuse the approval.

‘(2) However, the chief executive may grant the approval only if the chief

²⁶ See the Commonwealth Environment Act, sections 47 (Agreement may declare classes of actions do not need assessment) and 87 (Minister must decide on approach for assessment).

executive considers an EIS is appropriate for the project.

‘(3) The chief executive must, within 10 business days after the decision is made, give the proponent a written notice stating the decision, and the reasons for it.

‘CHAPTER 2B—DEVELOPMENT APPROVALS AND ENVIRONMENTAL AUTHORITIES OTHER THAN FOR MINING ACTIVITIES

‘PART 1—PRELIMINARY

‘Application of ch 2B

‘**34BK.** This chapter applies in relation to—

- (a) development approvals for environmentally relevant activities, other than mining activities; and
- (b) environmental authorities, other than for a mining activities.²⁷

‘Types of environmental authority under ch 2B

‘**34BL.(1)** The following are the types of environmental authority under this chapter—

- (a) a licence for a level 1 environmentally relevant activity (a “**licence**”);
- (b) a provisional environmental authority (a “**provisional licence**”) for a level 1 environmentally relevant activity;
- (c) an approval for a level 1 environmentally relevant activity (a “**level 1 approval**”);

²⁷ See also chapter 2D (General provisions about environmental authorities)

- (d) an approval for a level 2 environmentally relevant activity (a **“level 2 approval”**);
- (e) an integrated authority to the extent it consists of an environmental authority mentioned in paragraphs (a) to (d).

‘(2) A licence may be for an environmentally relevant activity for which development approval for a schedule 8 development for carrying out the activity—

- (a) is required (a **“licence (with development approval)”**); or
- (b) is not required (a **“licence (without development approval)”**).

‘(3) A level 1 approval may be for an environmentally relevant activity for which development approval for a schedule 8 development for carrying out the activity—

- (a) is required (a **“level 1 approval (with development approval)”**); or
- (b) is not required (a **“level 1 approval (without development approval)”**).²⁸

²⁸ For when development approval is required, see the Integrated Planning Act, sections 3.1.4, 3.1.5 and schedule 8 and section 34BN (Additional material change of use for Integrated Planning Act) of this Act.
For level 2 approvals, see part 3, division 3 (Obtaining level 2 approval) and section 118ZZI (Environmental authority or development approval required for level 2 environmentally relevant activity).

‘PART 2—DEVELOPMENT APPROVALS

‘Division 1—Assessable development use for Integrated Planning Act

‘Development for Integrated Planning Act, sch 8, pt 1, item 6

‘**34BM.(1)** For the Integrated Planning Act, schedule 8, part 1, item 6,²⁹ a material change of use of premises for an environmentally relevant activity, other than a mining activity, is taken to be assessable development for carrying out the activity.

‘(2) In this section—

“**material change of use**”, of premises, means a material change of use as defined under the Integrated Planning Act.³⁰

‘Additional material change of use for Integrated Planning Act

‘**34BN.(1)** This section applies if—

- (a) the holder of an environmental authority, or development approval, for an environmentally relevant activity proposes to carry out works for the construction or alteration of premises, or for the installation or alteration of plant or equipment in premises, for carrying out the activity; and
- (b) the construction, alteration or installation will result in an increase of 10% or more in the release of contaminant into the environment under the authority or approval.

²⁹ Integrated Planning Act, schedule 8 (Assessable, self-assessable and exempt development), part 1 (Assessable development)

³⁰ Integrated Planning Act, section 1.3.5—

“**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 change in the intensity or scale of the use of the premises.

‘(2) The increase is—

- (a) a material change of use of the premises for the Integrated Planning Act; and
- (b) taken to be assessable development for that Act.³¹

‘(3) This section does not limit section 34BM.

‘(4) In this section—

“**environmental authority**” does not include an environmental authority (mining activities).³²

Division 2—Assessing development applications

‘Application of div 2

‘**34BO.** This division applies if the administering authority is the assessment manager or a referral agency for an application for development approval for a schedule 8 development for carrying out an environmentally relevant activity.

‘Assessing development applications

‘**34BP.(1)** The administering authority must assess the application as if it were an application for a new environmental authority for carrying out the activity.

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

- (a) comply with any relevant EPP requirement; and
- (b) consider the standard criteria and any additional information in relation to the application.

³¹ See the Integrated Planning Act, schedule 8 (Assessable self-assessable and exempt development), part 1, item 6 and schedule 10, definition “assessable development”.

³² For an environmental authority (mining activities), see section 34EO (What is a “mining activity”).

Example of how application is assessed—

If an environmentally relevant activity is carried out on premises and a development application is made because of a proposed intensification of the activity, the application is assessed on the basis of the activity as intensified.

‘(3) However, for complying with an EPP requirement to follow a stated procedure in evaluating an environmental authority application, the administering authority is required to comply with the requirement only to the extent it is not inconsistent with a period allowed or required for doing anything under the Integrated Planning Act, chapter 3.

‘(4) To remove any doubt it is declared that subsections (1) and (2) apply only to the extent the application relates to the environmentally relevant activity.

‘(5) This section does not limit the Integrated Planning Act, section 3.3.15 or chapter 3, part 5, division 2³³ of that Act.

‘Conditions of development approval

‘**34BQ.(1)** In deciding conditions of a development approval, sections 34CJ and 34CK apply, with necessary changes, as if the application for the approval were an application for a new environmental authority for carrying out the activity.

‘(2) Subsection (1) is subject to the Integrated Planning Act, section 3.5.30.³⁴

³³ Integrated Planning Act, chapter 3 (Integrated development assessment system (IDAS)), chapter 3, part 5, division 2 (Assessment process) and section 3.5.15 (Decision notice).

³⁴ Sections 34CJ (Criteria for decision) and 34CK (Conditions that may be imposed).
Integrated Planning Act, section 3.5.30 (Conditions must be relevant or reasonable).
See also the Integrated Planning Act, sections 3.3.18 (Concurrence agency’s response powers) and 3.3.19 (Advice agency’s response powers).

‘Division 3—Effect of issue of certain development approvals

‘Development approvals continue to have effect

‘34BR.(1) This section applies if—

- (a) the development to which this part applies is a material change in the intensity or scale of the use of premises under the Integrated Planning Act; and
- (b) the development application for the development is made by or for the holder of 1 or more environmental authorities for 1 or more environmentally relevant activities; and
- (c) a development approval takes effect for carrying out the activity or activities to which the permit relates.

‘(2) The environmental authority or authorities are cancelled to the extent they authorise the carrying out of the activity or activities to which the permit relates.

‘(3) Also, if the currency period under the Integrated Planning Act for the permit ends, the permit continues to have effect for this Act subject to the development conditions applying to the carrying out of the activity or activities to which the permit relates immediately before the period ends.

‘(4) Subsection (3) applies despite section 3.5.21 of the Integrated Planning Act.³⁵

³⁵ Integrated Planning Act, section 3.5.21 (When approval lapses)

‘PART 3—ENVIRONMENTAL AUTHORITY APPLICATIONS

‘Division 1—Obtaining licence (with development approval)

‘Operation of div 1

‘34BS. This division provides the process to obtain, by application, a licence (with development approval).³⁶

‘Requirements for application

‘34BT. The application must be—

- (a) made to the administering authority in the approved form; and
- (b) supported by enough information to allow the authority to decide the application; and
- (c) accompanied by the prescribed fee that, under a regulation, must accompany the application.

‘Deciding application

‘34BU. The administering authority must, within 28 days after the application date, consider the application and decide whether to grant or refuse it.

‘Criteria for decision

‘34BV. In deciding whether to grant or refuse the application, the administering authority must consider the following—

³⁶ For how to obtain a level 1 approval see part 4 (Conversion of licence to level 1 approval).
For level 2 environmentally relevant activities carried out under a development approval, see section 118ZZI (Environmental authority or development approval required for level 2 environmentally relevant activity).

- (a) additional information given in relation to the application;
- (b) any suitability report obtained for the application;
- (c) any IEMS submission for the activity.

‘Conditions that may be imposed

‘34BW.(1) The administering authority may only impose conditions on the licence—

- (a) about the integrated environmental management system for the activity; or
- (b) requiring the giving of financial assurance under section 115.³⁷

‘(2) To remove any doubt, it is declared that a condition may be imposed even if it imposes an obligation on the licence holder that continues to apply after the licence has ended or ceased to have effect.

‘Steps after granting application

‘34BX.(1) If the administering authority decides to grant the application, it must take the steps mentioned in subsection (2)—

- (a) if, under a regulation, the application fee, or part of the fee, is not required to accompany the application, within 10 days after the later of—
 - (i) the day the decision is made; or
 - (ii) payment of the application fee or part of the fee; or
- (b) otherwise—within 10 days after the decision is made.

‘(2) For subsection (1), the steps are as follows—

- (a) issue the licence in the approved form;
- (b) insert it in the appropriate register;
- (c) give the applicant a copy of the licence.

³⁷ Section 115 (When financial assurance may be required)

Division 2—Obtaining licence (without development approval)

Subdivision 1—General provisions for obtaining licence

Operation of sdiv 1

34BY. This subdivision provides the process to obtain, by application, a licence (without development approval).

Definitions for sdiv 1

34BZ. In this subdivision—

“person” includes a body of persons, whether incorporated or unincorporated.

“submission period”, for the application, means—

- (a) the submission period for the application under section 34CD(1)(b) and (2); or
- (b) if section 34CF applies—any new submission period fixed under section 34CF(3)(b).

Requirements for application

34CA. The application must be—

- (a) made to the administering authority in the approved form; and
- (b) supported by enough information to allow the authority to decide the application, including, for example—
 - (i) relevant information about the likely risks to the environment; and
 - (ii) details of wastes to be generated; and
 - (iii) any waste minimisation strategy; and
- (c) accompanied by the prescribed fee that, under a regulation, must accompany the application.

‘Public access to application

‘34CB.(1) The administering authority must, from the application date to the review date—

- (a) keep the application open for inspection by members of the public at—
 - (i) if the authority is a local government—its public office; or
 - (ii) otherwise—at the authority’s head office and the other places the administering executive considers appropriate; and
- (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 part of the application.

‘(2) This section is subject to section 34CF.³⁸

‘Public notice of application

‘34CC.(1) The applicant must, within 2 days after the application date—

- (a) publish a notice about the application (the **“application notice”**) in a newspaper circulating generally in the area where the environmentally relevant activity is proposed to be carried out; and
- (b) if the application relates to premises—
 - (i) place the notice on the premises; and
 - (ii) give the notice to the occupier of any adjoining premises.

‘(2) This section is subject to section 34CF.

‘Required content of application notice

‘34CD.(1) The application notice must be in the approved form and state the following—

- (a) that anyone may make a submission to the administering

³⁸ Section 34CF (Substantial compliance may be accepted)

authority about the application;

- (b) the period (the “**submission period**”) during which submissions may be made;
- (c) how to make a properly made submission;
- (d) another matter prescribed under a regulation.

‘(2) The submission period must not end before the later of the following—

- (a) a day or time fixed by the authority before the notice is published;
- (b) 10 days after the application notice is published, placed and given under section 34CC.

‘Declaration of compliance

‘**34CE.(1)** The applicant must, within 7 days after the application date, give the administering authority a statutory declaration declaring whether or not the applicant has complied with the notice requirements under section 34CC and 34CD.

‘(2) A copy of the application notice must be attached to the declaration.

‘(3) The proponent is taken to have complied with the requirements if—

- (a) a declaration is given under this section; and
- (b) the declaration states the proponent has complied with the requirements.

‘Substantial compliance may be accepted

‘**34CF.(1)** If the applicant has not complied with the notice requirements under section 34CC or 34CD, the administering authority must decide whether to allow the application to proceed under this part as if the noncompliance had not happened.

‘(2) The authority may decide to allow the application to proceed only if it is satisfied there has been substantial compliance with the requirements.

‘(3) If the authority decides not to allow the application to proceed—

- (a) any steps purportedly taken to comply with sections 34CC and 34CD are of no effect; and
- (b) the authority must, within 10 days after the decision is made, give the applicant—
 - (i) a written notice fixing a new period for giving the application notice (the “**new notice period**”); and
 - (ii) if the submission period under section 34CD has or will start before the new notice period—a new submission period for the application; and
 - (iii) an information notice about the decision not to allow the application to proceed and the decision to fix the new notice period.

‘(4) The new notice period applies despite section 34CD(2).

‘**Right to make submission**

‘**34CG.** A person may, within the submission period, make a submission to the chief executive about the application.

‘**Acceptance of submissions**

‘**34CH.(1)** The administering authority must accept a submission if it—

- (a) is written; and
- (b) is signed by or for each person (“**signatory**”) who made the submission; and
- (c) states the name and address of each signatory; and
- (d) is made to the authority; and
- (e) is received on or before the last day of the submission period.

‘(2) A submission that complies with subsection (1) is called a “**properly made submission**”.

‘(3) The authority may accept a written submission even if it is not a properly made submission.

‘Deciding application

‘34CI. Subject to section 34CM,³⁹ the administering authority must, within the later of the following periods to end, consider and decide whether to grant or refuse the application—

- (a) 28 days after the application date;
- (b) 28 days after the authority receives the declaration of compliance under section 34CE;
- (c) 10 days after the submission period ends.

‘Criteria for decision

‘34CJ. In deciding whether to grant or refuse the application, the administering authority—

- (a) must comply with any relevant EPP requirement; and
- (b) subject to paragraph (a), must consider the following—
 - (i) the standard criteria;
 - (ii) additional information given in relation to the application;
 - (iii) any suitability report obtained for the application;
 - (iv) any properly made submission for the application;
 - (v) the views expressed at a conference held in relation to the application.

‘Conditions that may and must be imposed

‘34CK.(1) The administering authority may impose the conditions on the licence it considers are necessary or desirable.

‘(2) The conditions must include any condition the authority is required to impose under an EPP requirement.

‘(3) Without limiting subsections (1) and (2), the conditions may—

³⁹ Section 34CM (When provisional licence may be issued)

-
- (a) require the licence holder to do all or any of the following—
- (i) install and operate stated plant or equipment in a stated way within a stated period;
 - (ii) take stated measures to minimise the likelihood of environmental harm being caused;
 - (iii) carry out and report on a stated monitoring program;
 - (iv) prepare and carry out an environmental management program;
 - (v) give relevant information reasonably required by the administering authority for the administration or enforcement of this Act;
 - (vi) carry out or report about stated rehabilitation or remediation work relating to the environmentally relevant activity the subject of the licence; or
- (b) prohibit the holder from changing, replacing or operating any plant or equipment installed in the licensed place if the change, replacement or operation increases, or is likely to substantially increase, the risk of environmental harm; or
- (c) include a condition under section 115⁴⁰ requiring the giving of financial assurance.

‘(4) To remove any doubt, it is declared that a condition may be imposed even if it imposes an obligation on the licence holder that continues to apply after the licence has ended or ceased to have effect.

Example for subsection (4)—

A condition may—

1. Be about rehabilitation of the land to which the licence relates after the licence has ended; or
2. Require a site management plan for the land.

⁴⁰ Section 115 (When financial assurance may be required)

‘Steps after granting application

‘34CL.(1) If the administering authority decides to grant the application, it must take the steps mentioned in subsection (2)—

- (a) if, under a regulation, the application fee, or part of the fee, is not required to accompany the application, within 10 days after the later of—
 - (i) the day the decision is made; or
 - (ii) payment of the application fee or part of the fee; or
- (b) otherwise—within 10 days after the decision is made.

‘(2) For subsection (1), the steps are—

- (a) issue the licence in the approved form; and
- (b) insert it in the appropriate register; and
- (c) give the applicant a copy of the licence.

‘Subdivision 2—Provisional licences**‘When provisional licence may be issued**

‘34CM.(1) This section applies within the period required for deciding a licence application under subdivision 1 if the licence applied for has not been issued.

‘(2) If the administering authority considers the applicant can not give enough information about the licence application to allow it to decide the application, it may, instead of issuing the licence, issue a provisional licence if—

- (a) the authority is satisfied the applicant will be able to comply with all relevant environmental protection policies; and
- (b) the applicant has given the authority a written undertaking to comply with the policies.

‘(3) However, the authority must not issue more than 1 provisional licence for the same environmentally relevant activity carried out at the same place.

‘(4) The authority may impose conditions on a provisional licence that, under section 34CK, may be imposed on a licence.

‘(5) The information that, under subsection (2), the authority considers the applicant can not give is called the “**missing information**” for the provisional licence.

‘Steps after decision to grant provisional licence

‘34CN. If the administering authority decides to issue a provisional licence, it must within 10 days—

- (a) issue the provisional licence in the approved form; and
- (b) insert it in the appropriate register; and
- (c) give the applicant—
 - (i) a copy of the provisional licence; and
 - (ii) a written notice stating the missing information for the provisional licence.

‘Term of provisional licence

‘34CO. A provisional licence—

- (a) takes effect on the later of the following—
 - (i) the day stated in it;
 - (ii) if a properly made submission was made for the licence application to which the provisional licence relates—the review date for that application; and
- (b) remains in force until—
 - (i) the fifth anniversary of the day it was issued; or
 - (ii) if an earlier day is stated in the provisional licence for it to expire—the earlier day.

‘Reminder notices

‘34CP.(1) The administering authority must, at least 30 days before a provisional licence expires, give the licence holder a notice.

‘(2) The notice must state—

- (a) the day the provisional licence expires; and
- (b) that the holder of the provisional licence may, under section 34CQ, apply for a new licence for the environmentally relevant activity for which the provisional licence was issued; and
- (c) the missing information for the provisional licence.

‘(3) A contravention of this section does not affect the expiry of the provisional licence.

‘Application for new licence

‘34CQ.(1) The holder of a provisional licence may apply to the administering authority to—

- (a) cancel the provisional licence; and
- (b) issue a new licence for the environmentally relevant activity for which the provisional licence was issued.

‘(2) The application must be—

- (a) in the approved form; and
- (b) made before the provisional licence expires; and
- (c) supported by the missing information for the provisional licence; and
- (d) accompanied by the prescribed fee that, under a regulation, must accompany the application.

‘(3) Subdivision 1 applies to the application, with necessary changes, as if the application were a licence application.

‘(4) If the authority issues the new licence, it must cancel the provisional licence.

‘Division 3—Obtaining level 2 approval

‘Operation of div 3

‘34CR. This division provides the process to obtain, by application, a level 2 approval.⁴¹

‘Requirements for application

‘34CS. The application must be—

- (a) made to the administering authority in the approved form; and
- (b) supported by enough information to allow the authority to decide the application, including, for example—
 - (i) relevant information about the likely risks to the environment; and
 - (ii) details of wastes to be generated; and
 - (iii) any waste minimisation strategy; and
- (c) accompanied by the prescribed fee that, under a regulation, must accompany the application.

‘Deciding application

‘34CT. The administering authority must, within 28 days after the application date, consider and decide whether to grant or refuse the application.

‘Criteria for decision

‘34CU. In deciding whether to grant or refuse the application, the administering authority—

- (a) must comply with any relevant EPP requirement; and

⁴¹ See section 118ZZI (Environmental authority or development approval required for level 2 environmentally relevant activity).

- (b) subject to paragraph (a), must consider the following—
- (i) the standard criteria;
 - (ii) additional information given in relation to the application;
 - (iii) any suitability report obtained for the application.

‘Conditions that may and must be imposed

‘34CV.(1) The administering authority may impose the conditions on the level 2 approval it considers are necessary or desirable.

‘(2) The conditions must include any condition the authority is required to impose under an EPP requirement.

‘(3) Without limiting subsections (1) and (2), the conditions may require the licence holder to take stated measures to minimise the likelihood of environmental harm being caused.

‘(4) To remove any doubt, it is declared that a condition may be imposed even if it imposes an obligation on the approval holder that continues to apply after the approval has ended or ceased to have effect.

Example for subsection (4)—

A condition may—

1. Be about rehabilitation of the land to which the approval relates after the approval has ended; or
2. Require a site management plan for the land.

‘Steps after granting application

‘34CW.(1) If the administering authority decides to grant the application, it must take the steps mentioned in subsection (2)—

- (a) if, under a regulation, the application fee, or part of the fee, is not required to accompany the application, within 10 days after the later of—
 - (i) the day the decision is made; or
 - (ii) payment of the application fee or part of the fee; or

(b) otherwise—within 10 days after the decision is made.

‘(2) For subsection (1), the steps are—

- (a) issue the level 2 approval in the approved form; and
- (b) insert it in the appropriate register; and
- (c) give the applicant a copy of the approval.

‘(3) The approval must state a period for which it is issued.

Division 4—Miscellaneous provisions

‘When environmental authorities under pt 3 take effect

‘**34CX.** An environmental authority, other than a provisional licence, granted under this part takes effect on the later of the following—

- (a) the day of its issue;
- (b) a later day stated in it;
- (c) on the happening of an event stated in the authority for it to take effect;
- (d) if the authority was granted under division 2, subdivision 1,⁴² and a properly made submission was made the application for the authority—the review date.

‘Term of environmental authority

‘**34CY.(1)** A licence continues in force unless it is—

- (a) surrendered under section 34DV; or
- (b) converted into a level 1 approval following the grant of a conversion application for the licence; or

⁴² Division 2, subdivision 1 (General provisions for obtaining licence)

(c) cancelled or suspended under part 7.⁴³

‘(2) A level 1 approval continues in force unless it is cancelled or suspended under part 7.

‘(3) A level 2 approval continues in force for the period stated in it.

‘Information notice about decision on application

‘**34CZ.(1)** The administering authority must, within 10 days after making a decision to do the following for an application under this part for an environmental authority, give the applicant and any submitter for the application an information notice about the decision—

(a) to refuse the application;

(b) to impose a condition on the environmental authority, other than a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant.

‘(2) If the administering authority decides, under division 2,⁴⁴ to grant a licence it must, within 10 days after making the decision, give any submitter for the licence application an information notice about the decision.

⁴³ Section 34DV (Surrender of licence)

Part 7 (Amendment, cancellation or suspension of environmental authorities by administering authority)

⁴⁴ Division 2 (Obtaining licence (without development approval))

‘PART 4—CONVERSION OF LICENCE TO LEVEL 1 APPROVAL

‘Division 1—Conversion applications

‘When conversion application may be made

‘34DA. The holder of a licence, other than a provisional licence, may apply to convert the licence to a level 1 approval for the activity (a **“conversion application”**) only if the holder—

- (a) has held the licence for 2 years or more; and
- (b) has, in the 2 years immediately before the application is made; complied with—
 - (i) the conditions of the licence; and
 - (ii) if the licence is a licence (with development approval)—the development conditions of the development approval for the licensed activity; and
- (c) is not the holder of an environmental management program approval for the activity; and
- (d) is not subject to an environmental protection order in carrying out the activity.

‘Requirements for application

‘34DB. A conversion application must be—

- (a) made to the administering authority in the approved form; and
- (b) supported by enough information to allow the authority to decide the application, including, for example—
 - (i) relevant information about the likely risks to the environment; and
 - (ii) details of wastes to be generated; and
 - (iii) any waste minimisation strategy.

Division 2—Processing conversion applications

‘Deciding application

‘34DC. The administering authority must consider each conversion application and decide whether to grant or refuse it within 28 days after the application date.

‘Criteria for decision

‘34DD.(1) The administering authority may grant a conversion application only if it is satisfied the risk of environmental harm from the activity is insignificant because—

- (a) of any applicable cleaner production techniques used by the applicant; and
- (b) of any applicable waste minimisation practices used by the applicant; and
- (c) of contingency plans the applicant has developed to manage abnormal or emergency situations that may arise in carrying out the activity; and
- (d) the applicant’s implementation of best practice environmental management techniques has resulted in levels of environmental protection over and above the levels required by—
 - (i) the conditions of the licence; and
 - (ii) if the licence is a licence (with development approval)—the development conditions of the development approval for the licensed activity; and
- (e) of the applicant’s compliance with the general environmental duty.

‘(2) Also, if the application relates to a licence (without development approval), in deciding whether to grant or refuse the application, the authority—

- (a) must comply with any relevant EPP requirement; and

- (b) subject to paragraph (a), must consider the following—
 - (i) the standard criteria;
 - (ii) additional information given in relation to the application;
 - (iii) any suitability report obtained for the application;
 - (iv) any properly made submission for the application;
 - (v) the views expressed at a conference held in relation to the application.

‘Conditions of converted environmental authority

‘34DE.(1) If a conversion application is granted, the conditions of the licence become, with necessary changes, conditions of the level 1 approval.

‘(2) The administering authority must also impose a condition on the approval if, under an EPP requirement, it must be imposed on the approval.

‘(3) The authority may impose another condition on the approval only if—

- (a) for an application relating to a licence (with development approval)—the condition is about the integrated environmental management system for the environmentally relevant activity to which the approval relates; or
- (b) for an application relating to a licence (without development approval)—the condition is no more stringent than the conditions of the licence.

‘Steps after granting application

‘34DF. If the administering authority decides to grant a conversion application, it must, within 10 days after the decision is made, take the following steps—

- (a) cancel the licence;
- (b) issue the level 1 approval in the approved form;

- (c) insert it in the appropriate register;
- (d) give the applicant a copy of the approval.

‘When conversion takes effect

‘34DG. The conversion of a licence to a level 1 approval under this part takes effect on the later of the following—

- (a) the day the licence is cancelled;
- (b) the day the approval is issued;
- (c) a later day stated in the approval;
- (d) on the happening of an event stated in the approval for it to take effect.

‘Information notice about decision on conversion application

‘34DH.(1) The administering authority must, within 10 days after making a decision as follows, give the applicant an information notice about the decision—

- (a) a decision to refuse a conversion application;
- (b) a decision under section 34DE(3) to impose a condition on a level 1 approval, other than a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant.

‘(2) If a conversion application relates to a licence (without development approval) and the authority decides to grant the application, it must, within 10 days after making the decision, give any submitter for the application an information notice about the decision.

PART 5—AMENDING ENVIRONMENTAL AUTHORITIES BY APPLICATION

‘Environmental authorities that may be amended by application

‘34DI.(1) The holder of an environmental authority as follows may apply to the administering authority to amend it (an **“amendment application”**)—

- (a) a licence (without development approval);
- (b) a level 1 approval (without development approval).

‘(2) The following can not be amended, other than under part 7—

- (a) a licence (with development approval);
- (b) a level 1 approval (with development approval);
- (c) a level 2 approval.

‘Requirements for amendment application

‘34DJ. An amendment application must be—

- (a) in the approved form; and
- (b) supported by enough information to allow the administering authority to decide the application; and
- (c) accompanied by the fee prescribed under a regulation.

‘Public notice may be required for licence amendment

‘34DK.(1) This section applies only if an amendment application relates to a licence.

‘(2) The administering authority may, within 5 days after the application date, by written notice to the applicant, decide that sections 34CB to 34CH apply for the application (a **“public notice requirement”**).

‘(3) However, a public notice requirement must not be made unless the administering authority is satisfied there is likely to be a substantial increase

in the risk of environmental harm under the amended licence because of a substantial change in—

- (a) the quantity or quality of contaminant authorised to be released into the environment; or
- (b) the results of the release of a quantity or quality of contaminant authorised to be released into the environment.

‘(4) Without limiting subsection (3)(a), an increase of 10% or more in the quantity of a contaminant to be released into the environment is a substantial change.

‘(5) The notice must be accompanied by, or include, an information notice about the decision.

‘(6) If a public notice requirement has been made, sections 34CB to 34CH apply for the application, with necessary changes, as if the application were a licence application under part 3, division 2, subdivision 1.

‘(7) However, for applying section 34CC, the reference to 2 days after the application date is taken to be 10 days after the application date.⁴⁵

‘Deciding application

‘**34DL.** The administering authority must consider and decide either to grant or refuse each amendment application within the later of the following—

- (a) 28 days after the application date;
- (b) if a public notice requirement has been made for the application—
 - (i) 28 days after the authority receives the declaration of compliance under section 34CE; or
 - (ii) 10 days after the submission period ends.

⁴⁵ Part 3, division 2, subdivision 1 (General provisions for obtaining licence)
Section 34CC (Public notice of application)

‘Criteria for decision

‘34DM.(1) If an amendment application relates to a licence, the criteria mentioned in section 34CJ for deciding an environmental authority application apply.

‘(2) If an amendment application relates to a level 1 approval, in deciding whether to grant or refuse the application, the administering authority must consider the standard criteria.

‘Decision on application

‘34DN. The administering authority may grant an amendment application if it is satisfied the amendment is necessary or desirable.

‘Steps after making decision

‘34DO.(1) If the administering authority decides to grant an amendment application, it must do the following within 10 days after the decision is made—

- (a) amend the licence or level 1 approval to give effect to the amendment;
- (b) record particulars of the amendment in the appropriate register;
- (c) give the applicant a copy of the amended licence or level 1 approval;
- (d) give any submitter for the application an information notice about the decision.

‘(2) If the authority decides to refuse an amendment application, it must within 10 days after the decision is made, give the applicant and any submitter for the application an information notice about the decision.

‘When amendment takes effect

‘34DP. An amendment made under section 34DO(1)(a) takes effect on the later of the following—

- (a) the day the amendment is made;

- (b) a later day stated in the amended licence or level 1 approval;
- (c) if a public notice requirement has been made for the application and a properly made submission was made about the application—the day after the review date;
- (d) another day agreed to by the holder of the licence or level 1 approval.

‘PART 6—DEALINGS WITH LICENCES

‘Division 1—Required notice to proposed transferee

‘Notice of disposal by licence holder

‘34DQ.(1) This section applies if a licence holder proposes to dispose of the holder’s business to someone else (the **“proposed transferee”**).

‘(2) Before agreeing to dispose of the business, the holder must give the proposed transferee written notice that the proposed transferee must make application under division 2 for the transfer of the licence or for a new licence.

Maximum penalty—50 penalty units.

‘(3) If the holder does not comply with subsection (2), the proposed transferee may rescind the agreement by written notice given to the holder before the completion of the agreement or possession under the agreement, whichever is the earlier.

‘(4) On rescission of the agreement under subsection (3)—

- (a) a person who was paid amounts by the proposed transferee under the agreement must refund the amounts to the proposed transferee; and
- (b) the proposed transferee must return to the holder any documents about the disposal, other than the proposed transferee’s copy of the agreement.

‘(5) Subsections (3) and (4) have effect despite any other Act or anything to the contrary in the agreement.

‘Division 2—Transfer of licences (without development approval)

‘Transfer only by approval

‘**34DR.** A licence (without development approval) may be transferred only if—

- (a) an application for the transfer has been made under this division (a “**transfer application**”); and
- (b) the administering authority has approved the transfer.⁴⁶

‘Requirements for transfer application

‘**34DS.** A transfer application must be—

- (a) made to the administering authority by the proposed transferee in the approved form; and
- (b) supported by enough information to allow the authority to decide the application; and
- (c) accompanied by the fee prescribed under a regulation.

‘Deciding application

‘**34DT.** The administering authority must, within 28 days after the application date, consider each transfer application and decide either to approve or refuse the transfer.

‘Steps after making decision

‘**34DU.(1)** If the administering authority decides to approve a transfer, it

⁴⁶ For approvals, see section 34EK (No dealings with licence (with development approval) or approval)).

must, within 10 days after the decision is made—

- (a) amend the licence to give effect to the transfer; and
- (b) record particulars of the transfer in the appropriate register; and
- (c) give the applicant a copy of the transferred licence.

‘(2) The transfer takes effect on the day the decision is made or a later day stated in the transferred licence.

‘(3) If the authority decides to refuse a transfer, it must, within 10 days after the decision is made, give the applicant an information notice about the decision.

‘Division 3—Surrender of licences (without development approval)

‘Surrender of licence

‘**34DV.(1)** The holder of a licence (without development approval) may surrender it only by written notice given to the administering authority.

‘(2) The surrender takes effect on the later of the following—

- (a) the day the notice is given;
- (b) a later day stated in the notice.

**‘PART 7—AMENDMENT, CANCELLATION OR
SUSPENSION OF ENVIRONMENTAL AUTHORITIES
BY ADMINISTERING AUTHORITY**

‘Division 1—Conditions for amendment, cancellation or suspension

‘Subdivision 1—Amendments

‘Corrections

‘34DW. The administering authority may amend an environmental authority under this chapter, at any time to correct a clerical or formal error (a “**correction**”) if—

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

‘Other amendments

‘34DX.(1) The administering authority may amend an environmental authority under this chapter, other than a licence (with development approval) or a level 2 approval, at any time if—

- (a) the holder has agreed in writing to the amendment; or
- (b) it considers the amendment necessary or desirable because of a ground mentioned in subsection (2) and—
 - (i) if the amendment relates to a condition of the environmental authority—the amended condition is a condition that may be imposed on the environmental authority; and
 - (ii) the procedure under division 2 is followed.

‘(2) For subsection (1)(b), the grounds are that the authority considers the amendment necessary or desirable because of any of the following—

- (a) a contravention of this Act by the holder;

-
- (b) the environmental authority was issued because of a materially false or misleading representation or declaration, made either orally or in writing;
 - (c) the environmental authority was issued on the basis of a miscalculation of—
 - (i) the quantity or quality of contaminant authorised to be released into the environment; or
 - (ii) the effects of the release of a quantity or quality of contaminant authorised to be released into the environment;
 - (d) a change in the way in which, or the place where, contaminants are, or are likely to be, released into the environment;
 - (e) the approval of an environmental protection policy or the approval of the amendment of an environmental protection policy;
 - (f) an environmental report;
 - (g) if the environmental authority is for a level 1 approval—the administering authority forms the opinion that the risk of environmental harm from an activity carried out under the approval is no longer insignificant;
 - (h) another circumstance prescribed under a regulation.

‘Subdivision 2—Cancellation or suspension

‘Conditions

‘34DY.(1) The administering authority may cancel or suspend an environmental authority under this chapter, other than a level 2 approval, if—

- (a) an event mentioned in subsection (3) has happened; and
- (b) the procedure under division 2 is followed.

‘(2) If the environmental authority is a level 1 approval, the administering authority may also cancel the approval and issue a licence in its place.

‘(3) For subsection (1)(a), the events are as follows—

-
- (a) the environmental authority was issued because of a materially false or misleading representation or declaration, made either orally or in writing;
 - (b) if the environmental authority is for a level 1 approval—the administering authority forms the opinion that the risk of environmental harm from an activity carried out under the approval is no longer insignificant;
 - (c) the environmental authority holder is, after the issue of the environmental authority, convicted of an environmental offence;
 - (d) the holder has been given an annual notice and the notice has not been complied with.

Division 2—Procedure for amendment without agreement, cancellation or suspension

‘Application of div 2

‘34DZ. This division applies if the administering authority proposes to—

- (a) amend an environmental authority, other than—
 - (i) to make a correction; or
 - (ii) with the written agreement of the environmental authority holder; or
- (b) cancel or suspend an environmental authority.

‘Notice of proposed action

‘34EA.(1) The administering authority must give the environmental authority holder a written notice stating 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 amend the environmental authority—the proposed amendment;
- (e) if the proposed action is to suspend the environmental authority—the proposed suspension period;
- (f) that the holder 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 30 days after the holder is given the proposed action notice.

‘(3) For subsection (1)(e), 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.

‘**Considering representations**

‘**34EB.** The administering authority must consider any written representation made within the period stated in the notice under section 34EA by the environmental authority holder.

‘**Decision on proposed action**

‘**34EC.(1)** If, after complying with section 34EB, the administering authority still believes a ground exists to take the proposed action, it may—

- (a) if the proposed action was to amend the environmental authority in a stated way—make the amendment; or
- (b) if the proposed action was to suspend the environmental authority for a stated period—suspend the environmental authority for no longer than the proposed suspension period; or
- (c) if the proposed action was to cancel the environmental authority—
 - (i) cancel the environmental authority; or

- (ii) suspend it for a fixed period; or
- (iii) if the environmental authority is a level 1 approval (with development approval)—cancel the approval and issue a licence in its place subject to conditions that may be imposed on a licence (with development approval); or
- (iv) if the environmental authority is a level 1 approval (without development approval), cancel the approval and issue a licence in its place subject to conditions—
 - (A) required, under an EPP requirement, to be imposed on a licence (without development approval); and
 - (B) the administering authority considers necessary or desirable.

‘(2) The decision under subsection (1) is called the “**proposed action decision**”.

‘(3) If the administering authority at any time decides not to take the proposed action, it must promptly give the holder written notice of the decision.

‘**Notice of proposed action decision**

‘**34ED.(1)** The administering authority must, within 10 days after making the proposed action decision, give the environmental authority holder—

- (a) an information notice about the decision; and
- (b) if the decision was to cancel the approval and issue a licence in its place—a copy of the licence.

‘(2) 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;
- (c) if the decision was to cancel the approval and issue a licence in its place—the day after the review date.

‘(3) 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

‘Steps for corrections

‘34EE. If the administering authority amends an environmental authority to make a correction, it must within 10 days after giving notice of the correction under section 34DW(b)—

- (a) amend the environmental authority to give effect to the amendment; and
- (b) record particulars of the amendment in the appropriate register.

‘Steps for amendment by agreement

‘34EF. If the administering authority amends an environmental authority with the environmental authority holder’s agreement, it must within 10 days—

- (a) amend the environmental authority to give effect to the amendment; and
- (b) record particulars of the amendment in the appropriate register; and
- (c) give the holder a copy of the amended environmental authority.

‘Steps for amendment without agreement or for cancellation or suspension

‘34EG.(1) This section applies if the proposed action decision is to take action and the decision has taken effect.

‘(2) The administering authority must, within 10 days—

- (a) take the action; and
- (b) record particulars of the action in the appropriate 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.

‘(4) If the action is to amend the environmental authority, the administering authority must also give the environmental authority holder a copy of the amended environmental authority as soon as practicable.

‘PART 8—MISCELLANEOUS PROVISIONS

‘Environmental authorities for new environmentally relevant activities

‘34EGA.(1) This section applies if—

- (a) an activity, other than a mining activity, first becomes an environmentally relevant activity, on or after the commencement of this section; and
- (b) immediately before the activity became an environmentally relevant activity, a person was carrying out the activity; and
- (c) within 4 months after the day the activity becomes an environmentally relevant activity, the person applies for an environmental authority for the activity.

‘(2) Sections 118ZZH and 118ZZI do not apply to the person until—

- (a) if the application is granted—the day the environmental authority

issued to the person for the activity takes effect; or

- (b) if the application is refused—the day after notice of the decision to refuse it is given to the applicant; or
- (c) if, under section 34EI, the application is taken to have been refused—the end of the period within which it was required to be decided.

‘(3) Despite section 34CI(1), the administering authority must decide the application within 3 months after the application date.

‘(4) For this section, an activity does not first become an environmentally relevant activity on a day if, immediately before the day, an environmental authority could be issued to a person for the activity.⁴⁷

‘Administering authority may call conference

‘**34EH.(1)** The administering authority may invite an applicant under this chapter and all or any submitters for the application to a conference to help it in deciding the application.

‘(2) The authority must give written notice to all persons invited to attend the conference of when and where the conference is to be held.

‘(3) However, if the authority considers it is impracticable to give notice to all persons invited to attend the conference, it may give notice of the conference by publishing a notice in the newspapers the authority decides.

‘(4) The authority must endeavour to appoint an independent person to mediate the conference.

‘Failure to decide application taken to be refusal

‘**34EI.** If the administering authority fails to decide an application under this chapter within the period it is required to decide the application, the

⁴⁷ Sections 118ZZH (Environmental authority required for level 1 environmentally relevant activity), 118ZI (Environmental authority or development approval required for level 2 environmentally relevant activity), 34EI (Failure to decide application taken to be refusal) and 34CI (Deciding application)

failure is taken to be a decision by the authority to refuse the application at the end of the period.

‘Grounds for refusing application for or to transfer environmental authority

‘34EJ.(1) This section applies if the administering authority is considering an application for, or to transfer, an environmental authority under this chapter.

‘(2) The administering authority may refuse the application—

- (a) if it is satisfied the proposed holder is not a suitable person to hold an environmental authority; or
- (b) if a disqualifying event has happened in relation to the proposed holder or another person of whom the person is a partner; or
- (c) if the proposed holder is a corporation, a disqualifying event has happened in relation to—
 - (i) any of its executive officers; or
 - (ii) another corporation of which any of its executive officers is, or has been, an executive officer.

‘(3) In deciding whether a proposed holder is suitable person to hold an environmental authority, the administering authority must consider all relevant matters, including, for example—

- (a) the proposed holder’s environmental record; and
- (b) the proposed holder’s ability to comply with any conditions or proposed conditions of the environmental authority or proposed environmental authority.⁴⁸

‘No dealings with licence (with development approval) or approval

‘34EK. A licence (with development approval) or a level 1 or 2 approval can not be surrendered or transferred.

⁴⁸ See chapter 7, part 2, division 3 (Investigating suitability).

‘Notice of ceasing activity under certain environmental authorities

‘34EL.(1) This section applies to the holder of licence or level 1 approval (with development approval).

‘(2) The holder must, within 14 days after ceasing an environmentally relevant activity to which the licence or approval relates, give the administering authority written notice of the ceasing of the activity.

Maximum penalty for subsection (2)—50 penalty units.

‘Death of licence holder

‘34EM.(1) If a licence holder dies, the personal representative of the holder’s estate is taken to be the holder of the licence for—

- (a) 6 months from the day of the holder’s death; or
- (b) any longer period the administering authority decides, on written application made by the personal representative made within the 6 months.

‘(2) The authority must, within 10 business days after it receives the application, consider the application and decide whether to grant or refuse it.

‘(3) If the authority decides to refuse the application, it must, within 10 business days after making the decision, give the applicant an information notice about the decision.

CHAPTER 2C—ENVIRONMENTAL AUTHORITIES FOR MINING ACTIVITIES

PART 1—PRELIMINARY

Division 1—Introduction

Purpose of ch 2C

34EN.(1) The purpose of this chapter is to provide for environmental authorities for mining activities.⁴⁹

(2) An authority issued under this chapter for a mining activity is called an **“environmental authority (mining activities)”**.

Division 2—Key definitions for ch 2C

What is a “mining activity”

34EO.(1) A **“mining activity”** means an activity mentioned in subsection (2) that, under the Mineral Resources Act, is authorised to take place on—

- (a) land to which a mining tenement relates; or
- (b) land authorised under that Act for access to land mentioned in paragraph (a).

(2) For subsection (1), the activities are as follows—

- (a) prospecting, exploring or mining under the Mineral Resources Act or another Act relating to mining;
- (b) processing a mineral won or extracted by an activity under paragraph (a);
- (c) an activity that—

⁴⁹ See also chapter 2D (General provisions about environmental authorities).

-
- (i) is directly associated with, or facilitates or supports, an activity mentioned in paragraph (a) or (b); and
 - (ii) may cause environmental harm;
 - (d) rehabilitating or remediating environmental harm because of a mining activity under paragraphs (a) to (c);
 - (e) action taken to prevent environmental harm because of an activity mentioned in paragraphs (a) to (d);
 - (f) any other activity prescribed for this subsection under a regulation.

‘Types of “environmental authority (mining activities)”’

‘34EP. An environmental authority (mining activities) may be for mining activities authorised under—

- (a) a prospecting permit (an **“environmental authority (prospecting)”**); or
- (b) a mining claim (an **“environmental authority (mining claim)”**); or
- (c) an exploration permit (an **“environmental authority (exploration)”**); or
- (d) a mineral development licence (an **“environmental authority (mineral development)”**); or
- (e) a mining lease (an **“environmental authority (mining lease)”**).⁵⁰

‘What is a “mining project”’

‘34EQ. A **“mining project”** means all mining activities carried out, or proposed to be carried out, under 1 or more mining tenements, in any combination, as a single integrated operation.

⁵⁰ See also section 34EW (Single application required for mining project).

‘What are “application documents”

‘34ER. The **“application documents”** for an environmental authority (mining activities) application are all of the following—

- (a) the application;
- (b) any draft environmental authority for the application;
- (c) any submitted environmental management document for the application;
- (d) any EM plan assessment report or EMOS assessment report for the application;
- (e) any EIS submitted under chapter 2A, part 1⁵¹ for a project that is, or includes, a relevant mining activity for the application;
- (f) if an EIS mentioned in paragraph (e) has been submitted—
 - (i) any response under section 34AS(2)(b) to submissions; and
 - (ii) the EIS assessment report;
- (g) if a relevant mining tenement has, under the State Development Act, part 4, been declared to be, or include, a significant project—
 - (i) the EIS prepared under that part for the project; and
 - (ii) the coordinator-general’s report under section 29K of that Act⁵² evaluating the EIS;
- (h) any assessment report under the Commonwealth Environment Act that is for, or includes, a relevant mining activity;
- (i) any other document relating to the application prescribed under a regulation.

⁵¹ Chapter 2A, part 1 (EIS process)

⁵² State Development Act, part 4 (Environmental coordination) and section 29K (Coordinator-General evaluates EIS, submissions, other material and prepares report)

‘Division 3—Standard mining activities

‘Standard mining activities

‘34ES.(1) The administering authority may decide that a mining activity or proposed mining activity is a standard mining activity.

‘(2) However, a mining activity or proposed mining activity may be decided to be a standard mining activity only if the authority considers—

- (a) the activity has, or will if carried out have, a low risk of serious environmental harm; and
- (b) the activity is, or is proposed to be, allowed under an environmental authority; and
- (c) either—
 - (i) the environmental authority is an environmental authority (prospecting) or an environmental authority (mining claim); or
 - (ii) all mining activities allowed, or to be allowed, under the environmental authority meet the criteria prescribed under a regulation for that type of environmental authority; or
 - (iii) the likely environmental impact of all mining activities allowed, or to be allowed, under the environmental authority is no more than the environmental impact of all activities allowed under any environmental authority of the same type that meets the prescribed criteria.

**‘PART 2—GENERAL PROVISIONS FOR OBTAINING
ENVIRONMENTAL AUTHORITY (MINING
ACTIVITIES)**

‘Division 1—Introduction

‘Outline of process to obtain environmental authority (mining activities)

‘34ET.(1) This section outlines the requirements for making an environmental authority (mining activities) application.

‘(2) Before an application for any of the following is decided, an assessment level decision under division 3 is required—

- (a) an environmental authority (exploration);
- (b) an environmental authority (mineral development);
- (c) an environmental authority (mining lease).

‘(3) The following parts provide the process for assessing an application—

- (a) for an environmental authority (prospecting)—part 3;
- (b) for an environmental authority (mining claim)—part 4;
- (c) for an environmental authority (exploration) or an environmental authority (mineral development)—part 5;
- (d) for an environmental authority (mining lease)—part 6.⁵³

⁵³ Division 3 (Assessment level decision for certain applications)
Parts 3 (Processing environmental authority (Prospecting) applications),
4 (Processing environmental authority (Mining claim) applications) and
5 (Processing environmental authority (Exploration) and environmental authority
(Mineral development) applications)

‘(4) The following table summarises the main steps required under the provisions mentioned in subsections (2) and (3) and identifies the relevant sections for the steps⁵⁴—

Type of environmental authority (mining activities)	Assessment level decision required	Additional conditions allowed for standard application	Can an EIS requirement be made		Environmental management plan (“EMP”) or EMOS required		Public notification requirement and objections
			Standard application	Non-standard application	Standard application	Non-standard application	
environmental authority (prospecting)	no s 34FC	no s 34FL(3)	no	no	no	no	no
environmental authority (mining claim)	no s 34FC	yes s 34FR	no	no	no	no	yes s 34FS
environmental authority (exploration)	yes s 34FC	yes s 34FV	no	yes s 34FF	no	EMP s 34GC	no
environmental authority (mineral development)	yes s 34FC	yes s 34FV	no	yes s 34FF	no	EMP s 34GC	no
environmental authority (mining lease)	yes s 34FC	yes s 34GY(3)	no	yes s 34FF	no	EMOS s 34GQ	yes s 34HA & s 34HF

‘Division 2—Applications

‘Subdivision 1—General provisions about applications

‘Who may apply

‘34EU.(1) A person may apply for an environmental authority (mining activities) only if the person is the holder of, or the applicant for, a relevant

⁵⁴ Section 34GM (Summary of pt 6 process) also gives a summary of the process for assessing an environmental authority (mining lease) application.

mining tenement.⁵⁵

‘(2) This section is subject to section 34EX.

‘General requirements for application

‘34EV.(1) An environmental authority (mining activities) application must—

- (a) be made to the mining registrar in the approved form; and
- (b) state whether the application is for—
 - (i) a standard environmental authority (mining activities); or
 - (ii) a non-standard environmental authority (mining activities); and
- (c) if the application is for a standard environmental authority (mining activities), state—
 - (i) the type of environmental authority (mining activities) applied for; and
 - (ii) whether the applicant is able to comply with the standard environmental conditions for that authority; and
- (d) be accompanied by the prescribed fee that, under a regulation, must accompany the application.⁵⁶

‘(2) If the application is for an environmental authority (prospecting) or an environmental authority (mining claim), it must also be supported by enough information to allow the administering authority to decide the application.

‘(3) If the application is for another type of environmental authority (mining activities), it must also be supported by enough information to allow the administering authority to make an assessment level decision for the application.

‘(4) Subsection (3) does not prevent the application being supported by

⁵⁵ See also section 34KO (Restrictions on authority or transfer taking effect).

⁵⁶ See also chapter 2D, part 1 (Integrated environmental authorities).

other information that allows the administering authority to decide the application.⁵⁷

‘(5) The requirements under this section are called the “**application requirements**”.

‘Subdivision 2—Applications for mining projects

‘Single application required for mining project

‘**34EW.(1)** This section applies to a person who may apply for an environmental authority (mining activities) for mining activities proposed to be carried out as a mining project.

‘(2) The person may only make a single application for 1 environmental authority (mining activities) for all mining activities that form the project.

‘(3) The application must—

- (a) comply with subdivision 1; and
- (b) state—
 - (i) each type of environmental authority (mining activities) applied for; and
 - (ii) whether each stated type is proposed to be a standard or non-standard environmental authority (mining activities).

‘(4) If any relevant mining tenement for the application is a mining claim or mining lease, part 6, divisions 6 to 8 must be complied with for the whole application.⁵⁸

‘(5) If the administering authority grants the application, it may issue—

- (a) 1 environmental authority (mining activities) for all the activities

⁵⁷ For when the other information must be given, see sections 34GE (Environmental management plan—content requirements) and 34GS (EMOS—content requirements).

⁵⁸ Subdivision 1 (General provisions about applications) Part 6, divisions 6 (Public notice and objections stage for all applications), 7 (Decision stage) and 8 (Miscellaneous provisions)

(a “**project authority**”); or

(b) 2 or more environmental authorities (mining activities) for the activities.⁵⁹

‘(6) A project authority must—

- (a) state each type of environmental authority (mining activities) that forms the project authority; and
- (b) identify the conditions applying to each type.

‘(7) For applying parts 7 to 13 to a project authority, each type of environmental authority (mining activities) that forms the project authority is taken to be an environmental authority (mining activities) of that type.

‘**Single environmental authority required for mining project**

‘**34EX.(1)** This section applies if an environmental authority (mining activities) has been granted for a mining project.

‘(2) The holder of the authority can not apply for a separate environmental authority (mining activities) for an additional mining activity proposed to be carried out as part of the mining project.

‘(3) Subsection (2) applies whether or not the additional activity is proposed to be carried out under another mining tenement as part of the mining project.

‘(4) This section does not prevent the holder from applying to amend or replace the authority.

‘*Subdivision 3—Joint applications*

‘**Application of sdiv 3**

‘**34EY.** This subdivision applies if 2 or more persons (“**joint applicants**”) jointly apply for 1 or more environmental authorities (mining activities).

⁵⁹ See also chapter 2D, part 1 (Integrated environmental authorities)..

‘Joint application may be made

‘**34EZ.(1)** The administering authority may accept an application (a “**joint application**”) made for all the joint applicants by a person who is a joint applicant if it is satisfied the person is authorised to make the application for each of the joint applicants.

‘**(2)** More than 1 joint application may be made by the person for the same joint applicants.

‘Appointment of principal applicant

‘**34FA.(1)** The joint applicants may appoint 1 of them as the principal applicant for a joint application made by them.

‘**(2)** However, the appointment may be made only—

- (a) in the joint application; or
- (b) by a signed notice from all the joint applicants to the administering authority.

‘**(3)** The joint applicants may, by a signed notice from all of them to the authority, cancel the appointment.

‘Effect of appointment

‘**34FB.** If a person holds an appointment as the principal applicant for a joint application—

- (a) the principal applicant may, for all applicants for the application, give or submit to the administering authority a notice or other document relating to the application; and
- (b) the authority may—
 - (i) give a notice or other document relating to the application to all the applicants, by giving it to the principal applicant; or

- (ii) make a requirement under this chapter relating to the application of all the applicants, by making it of the principal applicant.⁶⁰

‘Division 3—Assessment level decision for certain applications

‘Operation of div 3

‘34FC.(1) This division provides for a decision (the “**assessment level decision**”) about the level at which an application for the following is to be assessed—

- (a) an environmental authority (exploration);
- (b) an environmental authority (mineral development);
- (c) an environmental authority (mining lease).

‘(2) Subject to section 34FG,⁶¹ the administering authority must make the assessment level decision.

‘Assessment level decision

‘34FD.(1) The administering authority must, within the period prescribed under a regulation, decide whether the application is a standard or non-standard application.

‘(2) The authority may decide the application is a standard application only if it considers—

- (a) each relevant mining activity is a standard mining activity; and
- (b) there are relevant standard environmental conditions.

‘(3) However, the application must be decided as a non-standard application if—

- (a) the application is for a mining project; and

⁶⁰ See also part 13, division 4 (Principal holder of authority).

⁶¹ Section 34FG (Ministerial decision about assessment level)

- (b) the authority decides any proposed mining activity that forms part of the project is not a standard mining activity.

‘Consequence of failure to decide

‘**34FE.(1)** This section applies if the administering authority does not make the assessment level decision within the period prescribed under section 34FD(1).

‘(2) If the application is for a standard authority, the authority is taken to have decided the application is a standard application.

‘(3) If the application is for a non-standard authority, the authority is taken to have decided the application is a non-standard application.

‘Decision about EIS requirement

‘**34FF.(1)** If the application is decided to be a non-standard application, the administering authority must, within the period prescribed under a regulation, decide whether an EIS is required for the application.

‘(2) The authority must, in making the decision, consider the standard criteria.

‘(3) If the authority does not make the decision within the prescribed period, it is taken, at the end of the period, to have decided that no EIS is required.

‘Ministerial decision about assessment level

‘**34FG.(1)** This section applies despite any decision by the administering authority under this division.

‘(2) The EPA Minister may, at any time before an environmental authority is issued for the application, make the assessment level decision.

‘(3) If the Minister decides the application is a non-standard application, the Minister must decide—

- (a) whether there is to be an EIS requirement for the application; and

(b) at what stage, or step within a stage, under part 5 or 6⁶² the processing of the application must start or resume.

‘(4) However, the stage or step must not be after the giving of the draft environmental authority.

‘(5) The deciding of the application must start or resume at the stage or step decided by the Minister.

‘(6) The Minister must, in making a decision under this section, consider the standard criteria.

‘Notice for non-standard applications

‘**34FH.(1)** This section applies if the assessment level decision is that the application is a non-standard application.

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

- (a) that the application is to be assessed as a non-standard application; and
- (b) whether or not an EIS is required for the application; and
- (c) if the Minister made the decision the stage or step within a stage decided by the Minister in the process under part 5 or 6 for the processing of the application to start or resume.

⁶² Part 5 (Processing environmental authority (Exploration) and environmental authority (Mineral development) applications) or 6 (Processing environmental authority (Mining lease) applications)

‘PART 3—PROCESSING ENVIRONMENTAL AUTHORITY (PROSPECTING) APPLICATIONS

‘Operation of pt 3

‘34FL. This part provides for the process to assess an environmental authority (prospecting) application.

‘Deciding application

‘34FJ.(1) The administering authority must, within the period prescribed under a regulation, consider the application and decide either to grant or refuse it.

‘(2) In making the decision, the authority must consider the following—

- (a) the standard criteria;
- (b) the applicant’s ability to comply with the relevant standard environmental conditions;
- (c) any suitability report obtained for the application;
- (d) the status of any application under the Mineral Resources Act for each relevant prospecting permit.

‘Consequence of failure to decide

‘34FK. The administering authority is taken to have decided to grant the application if at the end of the period prescribed under a regulation—

- (a) the application requirements have been complied with for the application; and
- (b) the authority has not decided to refuse the application.

‘Grant of application

‘34FL.(1) If the administering authority decides to grant the application it must, within 10 business days after the decision is made, issue the environmental authority in the approved form.

‘(2) The environmental authority must—

- (a) contain the relevant standard environmental conditions; or
- (b) identify the conditions by reference to their gazettal or to a code of environmental compliance in which they are contained.

‘(3) The environmental authority must not contain a condition other than a relevant standard environmental condition.

‘(4) The administering authority must insert the environmental authority in the appropriate register and give the applicant a copy of the environmental authority within 10 business days after the later of the following events happens—

- (a) the making of the decision;
- (b) the granting of each relevant prospecting permit.

‘**Notice of refusal**

‘**34FM.** If the administering authority decides to refuse the application, it must, within 10 business days after the decision is made, give the applicant a written notice stating—

- (a) the decision, and the reasons for it; and
- (b) that the refusal does not stop the applicant from applying for another type of environmental authority (mining activities) for the activities the subject of the application.

‘PART 4—PROCESSING ENVIRONMENTAL AUTHORITY (MINING CLAIM) APPLICATIONS

‘Division 1—Preliminary

‘Operation of pt 4

‘34FN. This part provides for the process to assess an environmental authority (mining claim) application.

‘Division 2—Decision to refuse or to allow to proceed

‘Administering authority may refuse application

‘34FO.(1) The administering authority must, within the period prescribed under a regulation (the **“refusal period”**), consider the application and decide either to refuse it or allow it to proceed under divisions 3 and 4.⁶³

‘(2) The authority must, in making the decision, consider the following—

- (a) the standard criteria;
- (b) the applicant’s ability to comply with the relevant standard environmental conditions;
- (c) any suitability report obtained for the application;
- (d) the status of any application under the Mineral Resources Act for each relevant mining tenement.

‘Notice of refusal

‘34FP. If the administering authority decides to refuse the application, it must, within 10 business days after the decision is made, give the applicant

⁶³ Divisions 3 (Draft environmental authority stage) and 4 (Public notice, objection and decision stage)

a written notice stating—

- (a) the decision, and the reasons for it; and
- (b) that the refusal does not stop the applicant from applying for another type of environmental authority (mining activities) for the activities the subject of the application.

‘Division 3—Draft environmental authority stage

‘Obligation to prepare draft environmental authority

‘34FQ.(1) This section applies if the administering authority does not, within the refusal period, decide to refuse the application.

‘(2) The authority must give the applicant and the mining registrar a draft environmental authority within the period prescribed under a regulation.

‘(3) The draft must—

- (a) be in the approved form; and
- (b) contain the relevant standard environmental conditions or identify them by reference to their gazettal or to a code of environmental compliance in which they are contained; and
- (c) comply with this division.

‘Additional conditions may be included

‘34FR.(1) The applicant may, before the draft is given, ask the administering authority to include an additional condition in the draft.⁶⁴

‘(2) The request must be—

- (a) made in the application or in the approved form; and
- (b) supported by enough information to allow the authority to decide whether to include the additional condition; and

⁶⁴ See section 34HF(2) (Right to make objection), as it is applied by section 34FS (Mining lease process under pt 6, divs 6–8 applies).

(c) be accompanied by the fee prescribed under a regulation.

‘(3) In deciding whether to include an additional condition the authority must—

- (a) comply with any relevant EPP requirement; and
- (b) subject to paragraph (a)—consider the standard criteria.

‘(4) However, an additional condition may be included only if the authority considers—

- (a) the condition is necessary or desirable; and
- (b) that, if the condition is included, the relevant mining activity would still be a standard mining activity.

‘(5) An additional condition may be included even if the applicant did not ask for it.

‘Division 4—Public notice, objection and decision stage

‘Mining lease process under pt 6, divs 6–8 applies

‘34FS.(1) The process to assess an environmental authority (mining lease) application under part 6, divisions 6 to 8 applies to the application, as if—

- (a) the application were an environmental authority (mining lease) application; and
- (b) a reference to an environmental authority (mining lease) were a reference to an environmental authority (mining claim); and
- (c) a reference to the relevant mining lease application were a reference to the relevant mining claim application; and
- (d) the reference in section 34HA(2)(a) to the giving and publication of a certificate of public notice were a reference to the actions

under the Mineral Resources Act, section 64B(2)(a) and (c).⁶⁵

‘(2) The process applies with any other necessary changes.

‘PART 5—PROCESSING ENVIRONMENTAL AUTHORITY (EXPLORATION) AND ENVIRONMENTAL AUTHORITY (MINERAL DEVELOPMENT) APPLICATIONS

‘Division 1—Preliminary

‘Operation of pt 5

‘34FT. This part provides for the process to assess—

- (a) an environmental authority (exploration) application; or
- (b) an environmental authority (mineral development) application.

‘Division 2—Standard applications

‘Application of div 2

‘34FU. This division applies if the application is a standard application.

‘Additional conditions may be imposed

‘34FV.(1) The administering authority may, in granting the application, impose an additional condition on the environmental authority.

⁶⁵ Part 6, divisions 6 (Public notice and objections stage for all applications), 7 (Decision stage) and 8 (Miscellaneous provisions)
Section 34HA (Public notice of application)
Mineral Resources Act, section 64B (Applicant’s obligations for certificate of public notice)

‘(2) The applicant may ask the authority to impose an additional condition.

‘(3) The request must be—

- (a) made in the application or in the approved form; and
- (b) supported by enough information to allow the authority to decide whether to impose the additional condition; and
- (c) be accompanied by the fee prescribed under a regulation.

‘(4) In deciding whether to impose an additional condition the authority must—

- (a) comply with any relevant EPP requirement; and
- (b) subject to paragraph (a)—consider the standard criteria.

‘(5) However, an additional condition may be imposed only if the authority considers—

- (a) the condition is necessary or desirable; and
- (b) that, if the condition is imposed, the relevant mining activity would still be a standard mining activity.

‘(6) An additional condition may be imposed even if the applicant did not ask for it.

‘Deciding application

‘34FW.(1) The administering authority must, within the period prescribed under a regulation, consider the application and decide whether—

- (a) to grant or refuse the application; and
- (b) to impose any additional condition.

‘(2) In making the decisions, the authority must consider the following—

- (a) the application documents for the application;
- (b) the standard criteria;
- (c) the applicant’s ability to comply with the relevant standard environmental conditions;

- (d) any suitability report obtained for the application;
- (e) the status of any application under the Mineral Resources Act for each relevant mining tenement.

‘Consequence of failure to decide

‘34FX.(1) The administering authority is taken to have decided to grant the application at the end of the period prescribed under section 34FW(1) if—

- (a) the application requirements have been complied with for the application; and
- (b) the authority has not decided to refuse the application.

‘(2) Also, if the applicant asked for an additional condition, the administering authority is taken to have decided to impose the condition on the environmental authority if the administering authority has not decided to refuse the request.

‘(3) This section ceases to apply and is taken never to have applied if, under section 34FG,⁶⁶ the EPA Minister decides the application is a non-standard application.

‘Grant of application

‘34FY.(1) If the administering authority decides to grant the application, it must, within 10 business days after the decision is made, issue the environmental authority in the approved form.

‘(2) The environmental authority must—

- (a) either—
 - (i) contain the standard environmental conditions for each relevant mining activity; or
 - (ii) identify the conditions by reference to their gazettal or to a code of environmental compliance in which they are contained; and

⁶⁶ Section 34FG (Ministerial decision about assessment level)

(b) contain any additional condition imposed.

‘(3) The administering authority must insert the environmental authority in the appropriate register and give the applicant a copy of the environmental authority within 10 business days after the later of the following events happens—

- (a) the making of the decision;
- (b) the granting of each relevant mining tenement for the application.

‘**Notice about refusal or condition decision**

‘**34FZ.(1)** This section applies if the administering authority decides—

- (a) to refuse the application; or
- (b) to impose an additional condition on the environmental authority and the condition is not the same, or to the same effect, as an additional condition agreed to or requested by the applicant; or
- (c) to refuse to impose an additional condition requested by the applicant.

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

- (a) the decision, and the reasons for it; and
- (b) that the decision does not stop the applicant from applying for another environmental authority (mining activities) for the activities the subject of the application.

‘*Division 3—Non-standard applications*

‘*Subdivision 1—Preliminary*

‘**Application of div 3**

‘**34GA.** This division applies if the application is a non-standard application.

‘Subdivision 2—EIS stage

‘EIS process applies

‘34GB.(1) If an EIS requirement has been made for the application, the EIS process must be completed.⁶⁷

‘(2) The process may proceed whether or not the applicant has submitted an environmental management plan under subdivision 3.

‘Subdivision 3—Environmental management document stage

‘Environmental management plan required

‘34GC.(1) The applicant must submit to the administering authority an environmental management plan for all relevant mining activities.

‘(2) If an EIS requirement has been made for the application, the plan may be submitted whether or not the EIS process has been completed.

‘Purpose of environmental management plan

‘34GD. The purpose of an environmental management plan is to propose environmental protection commitments to help the administering authority decide the conditions of the environmental authority.

‘Environmental management plan—content requirements

‘34GE.(1) An environmental management plan must—

- (a) be in the approved form; and
- (b) describe the following—
 - (i) each relevant mining tenement;
 - (ii) all relevant mining activities;

⁶⁷ For completion of the EIS process, see section 34AW (When process is completed).

- (iii) the land on which the mining activities are to be carried out;
 - (iv) the environmental values likely to be affected by the mining activities;
 - (v) the potential adverse and beneficial impacts of the mining activities on the environmental values; and
- (c) state the environmental protection commitments the applicant proposes for the mining activities to protect and enhance the environmental values under best practice environmental management; and
 - (d) contain enough other information to allow the administering authority to decide the application and conditions to be imposed on the environmental authority; and
 - (e) another matter prescribed under an environmental protection policy or a regulation.

‘(2) The environmental protection commitments must—

- (a) be stated in a way that allows them to be measured and to be audited under part 11; and
- (b) state the environmental protection objectives and the standards and measurable indicators, including, for example, objectives for progressive and final rehabilitation and management of contaminated land; and
- (c) include—
 - (i) an action program to ensure the commitments are achieved or implemented, including, for example, programs for the following in relation to the mining activities—
 - continuous improvement
 - environmental auditing
 - monitoring
 - reporting
 - staff training; and
 - (ii) a rehabilitation program for land proposed to be disturbed

under each relevant mining tenement.

‘(3) The rehabilitation program must state a proposed amount of financial assurance.

‘**Amending environmental management plan**

‘**34GF.(1)** This section applies if the applicant has submitted an environmental management plan for the application (the “**original plan**”).

‘(2) The applicant may amend or replace the original plan before the assessment period under section 34GG(2) ends.

‘(3) However, an amendment may be made only by giving the administering authority a written notice stating the amendment (an “**EM plan amendment notice**”).

‘(4) An EM plan amendment notice must be accompanied by the fee prescribed under a regulation.

‘(5) The submitted environmental management plan is taken to be the original plan, as amended from time to time by any EM plan amendment notice given for the original plan.

‘**EM plan assessment report may be prepared**

‘**34GG.(1)** The administering authority may give the applicant an assessment report (an “**EM plan assessment report**”) about a submitted environmental management plan.

‘(2) However, an EM plan assessment report may be given only within the period prescribed under a regulation (the “**assessment period**”).

‘(3) An EM plan assessment report may be included in an EIS assessment report for a project that includes a relevant mining activity.

‘**Requirements for EM plan assessment report**

‘**34GH.** In making an EM plan assessment report, the administering authority must—

- (a) comply with any relevant EPP requirement; and

- (b) subject to paragraph (a), consider—
 - (i) the submitted environmental management plan; and
 - (ii) whether the plan complies with the content requirements under section 34GE;⁶⁸ and
 - (iii) the standard criteria.

Subdivision 4—Decision stage

‘Deciding application

‘34GI.(1) The administering authority must, within the period prescribed under a regulation, consider the application and decide either to grant or refuse it.

‘(2) The authority may, in granting the application, impose the conditions on the environmental authority it considers necessary or desirable.

‘(3) In deciding whether to grant or refuse the application or to impose a condition the authority must—

- (a) comply with any relevant EPP requirement; and
- (b) subject to paragraph (a), consider the following—
 - (i) the application documents for the application;
 - (ii) the standard criteria;
 - (iii) any suitability report obtained for the application;
 - (iv) the status of any application under the Mineral Resources Act for each relevant mining tenement.

‘Grant of application

‘34GJ.(1) If the administering authority decides to grant the application, it must, within 10 business days after the decision is made, issue the environmental authority.

⁶⁸ Section 34GE (Environmental management plan—content requirements)

‘(2) The environmental authority must be—

- (a) in the approved form; and
- (b) contain all conditions imposed on the environmental authority.

‘(3) The administering authority must insert the environmental authority in the appropriate register and give the applicant a copy of the environmental authority within 10 business days after the later of the following events happens—

- (a) the making of the decision;
- (b) the granting of each relevant mining tenement for the application.

‘Information notice about refusal or condition decision

‘**34GK.(1)** This section applies if the administering authority decides—

- (a) to refuse the application; or
- (b) to impose a condition and it is not the same, or to the same effect, as any condition agreed to by the applicant.

‘(2) The authority must, within 10 business days after the decision is made, give the applicant an information notice about the decision.

‘PART 6—PROCESSING ENVIRONMENTAL AUTHORITY (MINING LEASE) APPLICATIONS

‘Division 1—Preliminary

‘Operation of pt 6

‘**34GL.** This part provides the process to assess an environmental authority (mining lease) application.

‘Summary of pt 6 process

‘34GM.(1) The stages for deciding the application and the main steps within each stage are stated in subsection (3).

‘(2) However, if the application is a standard application only stages 3 to 6 apply.

‘(3) For subsection (1), the stages are as follows—

stage 1 EIS—div 2 and ch 2A, pt 1

If an EIS requirement has been made for the application, the EIS process must be completed.

stage 2 Environmental management document—div 3

1. The applicant must submit an EMOS.
2. The administering authority may give the applicant an EMOS assessment report, whether or not stage 1 has been completed.

stage 3 Decision to refuse or to allow to proceed—div 4

1. The administering authority must, within the refusal period, decide either to refuse the application or to allow it to proceed under stages 4 to 6.
2. A refusal decision for a non-standard application is subject to review and to appeal to the tribunal under chapter 6, part 3.
3. If no refusal decision is made within the refusal period, stages 4 to 6 apply.

stage 4 Draft environmental authority—div 5

1. The administering authority gives the applicant a draft environmental authority that includes proposed conditions.
2. If the application is a standard application, the relevant standard environmental conditions must be included.

stage 5 Public notice and objections—div 6

1. The applicant gives public notice of the application documents for the application.
2. The administering authority receives, within the objection period, any objections to the application documents.

stage 6 Decision stage—div 7

(a) If there are objections—div 7, sdiv 1

If there are any current objections when the objection period ends—

1. The objections are referred to the tribunal.
2. The tribunal makes a recommendation about the application to the MRA Minister.
3. The EPA Minister decides the application.

(b) If no objections or objections are withdrawn—div 7, sdiv 2

The environmental authority must be issued on the basis of the draft environmental authority if—

1. There are no current objections when the objection period ends; or
2. All objections are withdrawn before the tribunal makes its recommendation.

Division 2—EIS stage for non-standard applications

‘Application of div 2

‘34GN. This division applies only if the application is a non-standard application and an EIS requirement has been made for the application.

‘EIS process applies

‘34GO.(1) The EIS process must be completed.⁶⁹

‘(2) The process may proceed whether or not the applicant has submitted an EMOS under division 3.

***‘Division 3—Environmental management document stage for
non-standard applications***

‘Application of div 3

‘34GP. This division applies only if the application is a non-standard application.

‘EMOS required

‘34GQ.(1) The applicant must submit to the administering authority an EMOS for all relevant mining activities (the **“submitted EMOS”**).

‘(2) If an EIS requirement has been made for the application, the EMOS may be submitted whether or not the EIS process has been completed.

‘Purpose of EMOS

‘34GR. The purpose of an EMOS is to propose environmental protection commitments to help the administering authority prepare the draft environmental authority for the application.

‘EMOS—content requirements

‘34GS.(1) A submitted EMOS must—

- (a) be in the approved form; and
- (b) describe the following—

⁶⁹ For completion of the EIS process, see section 34AW (When process is completed).

- (i) each relevant mining lease;
 - (ii) all relevant mining activities;
 - (iii) the land on which the mining activities are to be carried out;
 - (iv) the environmental values likely to be affected by the mining activities;
 - (v) the potential adverse and beneficial impacts of the mining activities on the environmental values; and
- (c) state the environmental protection commitments the applicant proposes for the mining activities to protect and enhance the environmental values under best practice environmental management; and
 - (d) contain enough other information to allow the administering authority to decide the application and conditions to be imposed on the environmental authority; and
 - (e) another matter prescribed under an environmental protection policy or a regulation.
- ‘(2) The environmental protection commitments must—
- (a) be stated in a way that allows them to be measured and to be audited under part 11; and
 - (b) state the environmental protection objectives and the standards and measurable indicators, including, for example, objectives for progressive and final rehabilitation and management of contaminated land; and
 - (c) include control strategies to ensure the objectives are achieved, including for example, strategies in relation to the mining activities—
 - continuous improvement
 - environmental auditing
 - monitoring
 - reporting
 - staff training.

‘Amending EMOS

‘34GT.(1) This section applies if there is a submitted EMOS for the application.

‘(2) The applicant may amend or replace the submitted EMOS at any time before the refusal period ends.

‘(3) However, an amendment may be made only by giving the administering authority a written notice stating the amendment (an **“EMOS amendment notice”**).

‘(4) An EMOS amendment notice must be accompanied by the fee prescribed under a regulation.

‘(5) The submitted EMOS is taken to be the original EMOS, as amended from time to time by any EMOS amendment notice given for the original EMOS.

‘EMOS assessment report may be prepared

‘34GU.(1) The administering authority may give the applicant an assessment report (an **“EMOS assessment report”**) about a submitted EMOS.

‘(2) However, an EMOS assessment report may be given only within the period prescribed under a regulation (the **“assessment period”**).

‘(3) An EMOS assessment report may be included in an EIS assessment report for a project that includes a relevant mining activity.

‘Requirements for EMOS assessment report

‘34GV. In making an EMOS assessment report, the administering authority must—

- (a) comply with any relevant EPP requirement; and
- (b) subject to paragraph (a), consider—
 - (i) the submitted EMOS; and
 - (ii) whether the EMOS complies with the content requirements

- under section 34GS;⁷⁰ and
(iii) the standard criteria.

Division 4—Decision to refuse or to allow to proceed

‘Administering authority may refuse application

‘34GW.(1) The administering authority must, within the period prescribed under a regulation (the **“refusal period”**), consider the application and decide either to refuse it or allow it to proceed under divisions 5 to 7.⁷¹

‘(2) The authority must, in making the decision, consider the following—

- (a) the application documents for the application;
- (b) the standard criteria; and
- (c) if the application is a standard application—the applicant’s ability to comply with the relevant standard environmental conditions;
- (d) any suitability report obtained for the application;
- (e) the status of any application under the Mineral Resources Act for each relevant mining tenement.

‘(3) If the decision is to refuse the application, the authority must, within 10 business days after the decision is made, give the applicant—

- (a) if the application is a standard application—a written notice stating the decision and the reasons for it; or
- (b) if the application is a non-standard application—an information notice about the decision.

⁷⁰ Section 34GS (EMOS—content requirements)

⁷¹ Divisions 5 (Draft environmental authority stage), 6 (Public notice and objections stage for all applications) and 7 (Decision stage)

‘Division 5—Draft environmental authority stage

‘Obligation to prepare draft environmental authority

‘34GX.(1) This section applies if the administering authority does not, within the refusal period, decide to refuse the application.

‘(2) The authority must give the applicant and the mining registrar a draft environmental authority within the later of the following periods to end—

- (a) 5 business days after the refusal period ends;
- (b) if additional conditions have been requested under section 34GY—10 business days after the last request for additional conditions was made;
- (c) if the applicant and the authority have, within the later of the periods under paragraph (a) or (b) to end, agreed to a longer period for the preparation of the draft—the longer period.

‘(3) The draft must—

- (a) be in the approved form; and
- (b) include proposed conditions for the environmental authority; and
- (c) comply with this division.

‘Conditions—standard applications

‘34GY.(1) This section applies if the application is a standard application.

‘(2) The administering authority must in the draft environmental authority—

- (a) include the relevant standard environmental conditions; or
- (b) identify the conditions by reference to their gazettal or to a code of environmental compliance in which they are contained.

‘(3) The applicant may, before the draft is given, ask the authority to include an additional condition in the draft.

‘(4) The request must be—

- (a) made in the application or in the approved form; and

- (b) supported by enough information to allow the authority to decide whether to include the additional condition; and
- (c) be accompanied by the fee prescribed under a regulation.⁷²

‘(5) In deciding whether to include an additional condition the authority must—

- (a) comply with any relevant EPP requirement; and
- (b) subject to paragraph (a)—consider the standard criteria.

‘(6) However, an additional condition may be included only if the authority considers—

- (a) the condition is necessary or desirable; and
- (b) that, if the condition is included, the relevant mining activity would still be a standard mining activity.

‘(7) An additional condition may be included even if the applicant did not ask for it.

‘Conditions—non-standard applications

‘34GZ.(1) This section applies if the application is a non-standard application.

‘(2) The administering authority may include conditions in the draft environmental authority it considers necessary or desirable.

‘(3) In fixing proposed conditions for the draft, the administering authority must—

- (a) comply with any relevant EPP requirement; and
- (b) subject to paragraph (a), consider—
 - (i) the application documents for the application; and
 - (ii) the standard criteria.

⁷² See section 34HF(2) (Right to make objection).

‘Division 6—Public notice and objections stage for all applications**‘Public notice of application**

‘34HA.(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, the certificate of public notice for the relevant mining lease application under the Mineral Resources Act, section 252B;⁷³ and
- (b) in another way prescribed under a regulation.

‘(3) Also, 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 34HE.⁷⁴

‘Required content of application notice

‘34HB.(1) The application notice must be in the approved form and state the following—

- (a) a description of each relevant mining activity;
- (b) the land on which the mining activities are to be carried out;
- (c) what are the application documents for the application;
- (d) where the application documents may be inspected;⁷⁵
- (e) where copies of, or extracts from, the application documents may be obtained;

⁷³ Mineral Resources Act, section 252B (Issue of certificate of public notice)

⁷⁴ Section 34HE (Substantial compliance may be accepted)

⁷⁵ See sections 34HC (Public access to application documents), 213 (Required registers) and 214 (Inspection of register).

- (f) who has the right to make an objection under section 34HF;
- (g) the period (the “**objection period**”) during which objections may be given;
- (h) how to make a properly made objection;
- (i) another matter prescribed under a regulation.

‘(2) The objection period must end on—

- (a) if there is only 1 relevant mining tenement application—the last objection day under the Mineral Resources Act for the application; or
- (b) if there is more than 1 relevant mining tenement application—the later of the last objection days under the Mineral Resources Act for the applications.⁷⁶

‘(3) This section is subject to section 34HE.

‘Public access to application documents

‘34HC. The administering authority must, within the objection period—

- (a) keep the application documents for the application open for public inspection at the authority’s head office during office hours on business days; and
- (b) permit a person to take extracts from the application documents for the application or, on payment of the appropriate fee to the authority, give the person a copy of the documents, or a part of the documents.

‘Declaration of compliance

‘34HD.(1) The applicant must, within 5 business days after the objection period starts, give the administering authority a statutory declaration declaring whether or not the applicant has complied with the notice requirements under section 34HA and 34HB (the “**public notice**”

⁷⁶ For the last objection day under the Mineral Resources Act, see section 252A (Issue of certificate of public notice) of that Act.

requirements’).

‘(2) A copy of the application notice must be attached to the declaration.

‘(3) The applicant is taken to have complied with the public notice requirements if—

- (a) a declaration is given under this section; and
- (b) the declaration states the applicant has complied with the requirements.

‘Substantial compliance may be accepted

‘**34HE.(1)** If the applicant has not complied with the public notice requirements, the administering authority must, before the objection period ends, decide whether to allow the application to proceed under this part as if the noncompliance had not happened.

‘(2) 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.

‘(3) 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 a written notice of the substituted way; and
 - (ii) if the objection period under section 34HB has or will start before the giving or publication of the substituted notice—fix a new objection period for the application and give the applicant written notice of the period; and
 - (iii) give the applicant an information notice about the decision.

‘(4) The stated substituted way to give or publish the application notice applies instead of the requirements for giving or publishing the notice under section 34HA.⁷⁷

‘Right to make objection

‘34HF.(1) An entity may make an objection about—

- (a) the application; or
- (b) the draft environmental authority for the application; or
- (c) a condition included in the draft.

‘(2) However, if the application is a standard application, the applicant can not object to a condition included in the draft environmental authority.

‘(3) An objection may be made only by giving it to the administering authority.

‘Acceptance of objections

‘34HG.(1) The administering authority must accept an objection if it—

- (a) is written; and
- (b) is signed by or for each entity (“**signatory**”) who made the objection; and
- (c) states the name of and an address for each signatory; and
- (d) is made to the administering authority; and
- (e) is received on or before the last day of the objection period; and
- (f) states the grounds of the objection and the facts and circumstances relied on in support of the grounds.

‘(2) An objection that complies with subsection (1) is called a “**properly made objection**”.

‘(3) The authority may accept a written objection even if it is not a properly made objection.

⁷⁷ Section 34HA (Public notice of application)

‘Amendment or withdrawal of objection

‘34HH.(1) If the administering authority has accepted an objection, the entity who made the objection may, by written notice in the approved form—

- (a) within the objection period, amend or replace the objection; or
- (b) at any time before the objections decision is made, withdraw the objection.

‘(2) However, a notice may be given only as follows—

- (a) before the objection period ends—by giving it to the authority;
- (b) after the objection period ends—by filing it with the tribunal and giving the authority a copy.

‘Division 7—Decision stage

‘Subdivision 1—Referral to tribunal if current objection

‘Referral to tribunal

‘34HI.(1) If there is a current objection to the application when the objection period for the application ends, the administering authority must, within 10 business days, refer the application to the tribunal for a decision under this subdivision (the **“objections decision”**).

‘(2) The referral must be made by filing with the registrar of the tribunal—

- (a) a notice, in the approved form, referring the application to the tribunal; and
- (b) a copy of the application documents for the application and each current objection.

‘(3) The referral starts a proceeding before the tribunal for it to make the objections decision.

‘(4) The parties to the proceeding are as follows—

- (a) the authority;
- (b) the applicant;
- (c) each objector for the application;
- (d) anyone else decided by the tribunal.

‘(5) The authority must, within 10 business days after making the referral—

- (a) give the applicant a copy of the notice and each current objection; and
- (b) give each objector a copy of the notice.

‘Objections decision hearing

‘**34HJ.(1)** The tribunal may, of its own initiative, make orders or directions it considers appropriate for a hearing for the objections decision (the “**objections decision hearing**”).

‘(2) The orders or directions must, as much as practicable, ensure the objections decision hearing happens as closely as possible to hearings under the Mineral Resources Act for each relevant mining tenement.

‘(3) The directions may include directions about the constitution of the tribunal for the objections decision hearing.

‘(4) This section is subject to the *Land and Resources Tribunal Act 1999*, section 40 and part 4, divisions 1 and 2.⁷⁸

‘Tribunal mediation of objections

‘**34HK.(1)** At any time before the objections decision is made, any party to the proceeding may ask the tribunal to conduct or provide mediation for the objector’s objection.

‘(2) The mediation must be conducted by the tribunal or a mediator

⁷⁸ *Land and Resources Tribunal Act 1999*, section 40 (Specific requirements for constituting tribunal for proceeding) and part 4 (Organisation and operation of tribunal), divisions 1 (Sittings of tribunal) and 2 (Hearings)

chosen by the tribunal.⁷⁹

‘(3) However, the mediation is subject to orders or directions made under section 34HJ(4).

‘Nature of objections decision

‘**34HL.(1)** The objections decision for the application must be a recommendation to the MRA Minister that—

- (a) the application be granted on the basis of the draft environmental authority for the application; or
- (b) the application be granted, but on stated conditions that are different to the conditions in the draft; or
- (c) the application be refused.

‘(2) The tribunal must give a copy of the decision to the EPA Minister as soon as practicable after the decision is made.

‘Matters to be considered for objections decision

‘**34HM.** In making the objections decision for the application, the tribunal must consider the following—

- (a) the application documents for the application;
- (b) any relevant EPP requirement;
- (c) the standard criteria;
- (d) each current objection;
- (e) for a standard application—any relevant standard environmental conditions;
- (f) any suitability report obtained for the application;
- (g) the status of any application under the Mineral Resources Act for each relevant mining tenement.

⁷⁹ For the conduct of the mediation, see the *Land and Resources Tribunal Act 1999*, sections 72 to 75.

‘Advice from MRA Minister about objections decision

‘**34HN.(1)** After the objections decision for the application has been made, the EPA Minister must seek advice from the MRA Minister about the decision.

‘**(2)** The advice may be sought at the time and in the way the EPA Minister considers appropriate.

‘**(3)** The MRA Minister may give the advice sought only within the later of the following periods to end—

- (a) 10 business days after the EPA Minister seeks the advice;
- (b) if the MRA Minister and the EPA Minister have, within the 10 business days, agreed to a longer period—the longer period.

‘**(4)** In giving the advice sought, the MRA Minister may seek advice from any entity.

‘**(5)** A contravention of this section does not invalidate a decision under section 34HO or an environmental authority granted under section 34HP to which the decision relates.

‘EPA Minister’s decision on application

‘**34HO.(1)** The EPA Minister must make 1 of the following decisions (the “**Minister’s decision**”)—

- (a) that the application be granted on the basis of the draft environmental authority for the application;
- (b) that the application be granted, but on conditions stated in the Minister’s decision that are different to the conditions in the draft;
- (c) that the application be refused.

‘**(2)** The Minister’s decision must be made within a reasonable period after the end of the later period under section 34HN(3).

‘**(3)** The Minister must, before making the decision consider—

- (a) the objections decision; and
- (b) any conditions for the environmental authority recommended by the coordinator-general under the State Development Act,

section 29Y.⁸⁰

‘(4) To remove any doubt, it is declared that the Minister is not bound to impose on the environmental authority a condition recommended under the objections decision or a condition mentioned in subsection (3)(b).

‘(5) The administering authority must, within 10 business days after the decision is made, give the applicant a written notice stating the decision, and the reasons for it.

‘Grant of application

‘**34HP.(1)** This section applies if the Minister’s decision is to grant the application.

‘(2) The administering authority must, within 10 business days after the decision is made, issue the environmental authority in the approved form.

‘(3) The environmental authority must—

- (a) include the Minister’s decision; and
- (b) contain the conditions decided by the Minister under section 34HO.

‘(4) The administering authority must insert the environmental authority in the appropriate register and give the applicant a copy of the environmental authority within 10 business days after the later of the following events happens—

- (a) the making of the decision;
- (b) the granting of each relevant mining tenement for the application.

⁸⁰ State Development Act, part 4 (Environmental coordination) and section 29K (Coordinator-General evaluates EIS, submissions other materials and prepares report)

***‘Subdivision 2—Grant if no current objection at end of objection period
or before objections decision***

‘Application of sdiv 2

‘34HQ. This subdivision applies if—

- (a) at the end of the objections period for the application there is no current objection to the application; or
- (b) after the objection period, but before the objections decision is made, there are no longer any current objections.

‘Grant of application on basis of draft environmental authority

‘34HR.(1) The administering authority must, within 10 business days, issue the environmental authority in the approved form.

‘(2) The conditions of the environmental authority must be the same, or substantially the same, as the draft environmental authority for the application.

‘(3) The administering authority must insert the environmental authority in the appropriate register and give the applicant a copy of the environmental authority within 10 business days after the granting of each relevant mining tenement for the application.

‘Division 8—Miscellaneous provisions

‘Withdrawing an application

‘34HS.(1) An application may, by written notice given to the administering authority, be withdrawn by the applicant at any time before the environmental authority is issued.

‘(2) If the applicant withdraws the application the applicant must give each entity who has made a current objection notice of the withdrawal.

‘Certain objections apply for later applications

‘34HT.(1) This section applies if—

- (a) an environmental authority (mining activities) application is withdrawn; and
- (b) within 1 year after the withdrawal, the applicant makes a later application; and
- (c) each relevant mining activity for the later application is the same, or substantially the same, as the withdrawn application.

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

‘Effects of noncompliance with application process

‘34HU.(1) This section applies to an application for an environmental authority (mining activities) if the applicant—

- (a) does not comply with—
 - (i) the application requirements; or
 - (ii) a requirement under a relevant process under this part for assessing the application; or
- (b) becomes entitled to take the next step under the process and has not taken the step.

‘(2) The following are suspended until the requirement is complied with or the step is taken—

- (a) the application;
- (b) any obligation under this part in relation to the application imposed on the administering authority, the tribunal or a Minister.

‘(3) The application lapses on the later of the following days if the requirement has not been complied with or the step has not been taken—

- (a) the first anniversary of the suspension;

- (b) if the applicant and the authority have, before the first anniversary, agreed to a later day—the later day.

‘(4) This section is subject to section 34HE.⁸¹

‘PART 7—PLAN OF OPERATIONS FOR ENVIRONMENTAL AUTHORITY (MINING LEASE)

‘Application of pt 7

‘34HV. This part applies to an environmental authority (mining lease).

‘Plan of operations required before acting under relevant mining lease

‘34HW.(1) The environmental authority holder must not carry out, or allow the carrying out, of an activity under a relevant mining lease unless—

- (a) a plan of operations for all relevant mining activities has been submitted to the administering authority; and
- (b) at least 28 days, or a shorter period agreed in writing by the administering authority, have passed since the plan was submitted; and
- (c) the plan complies with section 34HX; and
- (d) the carrying out of the activity is—
 - (i) consistent with the plan; and
 - (ii) done in a period to which the plan applies.

Maximum penalty—100 penalty units.

‘(2) In this section—

⁸¹ Section 34HE (Substantial compliance may be accepted)

“plan of operations”, for a mining lease, includes any plan of operations submitted to the administering authority for a proposed mining lease substantially the same as the mining lease.

‘Content requirements

‘34HX.(1) A plan of operations must—

- (a) be in the approved form; and
- (b) describe the following—
 - (i) each relevant mining lease for the environmental authority;
 - (ii) the land to which each relevant mining lease applies;
 - (iii) the land to which the plan applies; and
- (c) state the period to which the plan applies (the **“plan period”**); and
- (d) include the following—
 - (i) a plan showing where all activities are to be carried out on the land;
 - (ii) an action program for—
 - (A) if the environmental authority is a non-standard environmental authority (mining activities)—achieving or implementing the environmental protection commitments and control strategies under the submitted EMOS; and
 - (B) complying with the conditions of the environmental authority;
 - (iii) a rehabilitation program for land disturbed or proposed to be disturbed under each relevant mining lease;
 - (iv) another matter prescribed under an environmental protection policy or a regulation; and
- (e) be accompanied by—
 - (i) an audit statement for the plan; and
 - (ii) the fee prescribed under a regulation.

‘(2) The rehabilitation program must state a proposed amount of financial assurance for the plan period.

‘(3) The audit statement 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 the way decided by the administering authority under section 115(3).⁸²

‘(4) The plan period must not be more than 5 years.

‘(5) A plan of operations may relate to 2 or more relevant mining leases.

‘Amending or replacing plan

‘34HY.(1) This section applies if the environmental authority holder has submitted a plan of operations (the “**original plan**”) and the plan period for the plan under section 34HX has not ended.

‘(2) The holder may amend or replace the original plan at any time before the plan period ends only 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) an audit statement for the original plan, as amended, or for the replacement plan; and
 - (iii) the fee prescribed under a regulation.

‘(3) The audit statement must comply with section 34HX(3).

⁸² Section 115 (When financial assurance may be required)

‘(4) The holder’s submitted 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 must not extend the plan period.

‘(6) The original plan ceases to apply if it is replaced.

‘(7) A replacement plan may apply for any period of no more than 5 years from when notice of it is given under this section.

‘Environmental authority overrides plan

‘**34HZ.(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 28 days after the holder becomes aware of the inconsistency, cause the plan to be amended in a way so that the plan is no longer inconsistent with the authority.

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

‘PART 8—AMENDMENT OF AUTHORITIES BY APPLICATION

‘Division 1—Preliminary

‘Exclusions from amendment under pt 8

‘**34IA.(1)** An environmental authority (prospecting) can not be amended under this part.

‘(2) A condition of an environmental authority (mining activities) about requiring a financial assurance can not be amended or discharged under this

part.⁸³

‘(3) The requirements of this part do not apply for a partial surrender of an environmental authority (mining activities) allowed by section 34JG.⁸⁴

‘Division 2—General provisions for amendment applications

‘Who may apply

‘**34IB.** The holder of an environmental authority (mining activities) may, at any time, apply to the administering authority to amend the environmental authority (an “**amendment application**”).

‘Additional conditions may be sought for standard authorities

‘**34IC.** An amendment application may seek additional conditions for the environmental authority (mining activities) if it is a standard environmental authority (mining activities).

‘Requirements for application

‘**34ID.** An amendment application must be—

- (a) made in the approved form; and
- (b) supported by enough information to allow the administering authority to decide the application; and
- (c) accompanied by the fee prescribed under a regulation.

⁸³ See section 117 (Application for amendment or discharge of financial assurance).

⁸⁴ Section 34JG (Surrender may be partial)

Division 3—Processing amendment applications for standard authorities

‘Application of div 3

‘34IE. This division applies if an amendment application is for a standard environmental authority (mining activities).

‘Deciding application

‘34IF.(1) The administering authority must, within the period prescribed under a regulation, decide either to grant or refuse the application.

‘(2) The authority may grant the application only if—

(a) it considers—

(i) the amendment necessary or desirable; and

(ii) that, if the amendment were to be made, each relevant mining activity would still be a standard mining activity; or

(b) the amendment is to reflect a change in the relevant standard environmental conditions.

‘(3) However, in making the decision, the authority must consider the following—

(a) the standard criteria;

(b) the applicant’s ability to comply with the relevant standard environmental conditions;

(c) any suitability report obtained for the application;

(d) the status of any application under the Mineral Resources Act for, or relating to, each relevant mining tenement.

‘(4) The authority may refuse the application on the ground that it would be more appropriate for the applicant to seek the amendment by replacement of the environmental authority.

‘Consequence of failure to decide

‘34IG. The administering authority is taken to have decided to grant the application at the end of the period prescribed under section 34IF(1) if—

- (a) the requirements under section 34ID have been complied with for the application; and
- (b) the authority has not decided to refuse the application.

‘Steps after making decision

‘34IH.(1) If the administering authority decides to grant the application, it 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; 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 administering authority decides to refuse the application, it must, within 10 business days after the decision is made, give the applicant a written notice stating—

- (a) the decision, and the reasons for it; and
- (b) that the decision does not stop the applicant from applying for another environmental authority (mining activities) for the activities the subject of the application.

Division 4—Processing other amendment applications

Subdivision 1—Preliminary

Application of div 4

34II. This division applies if an amendment application is for a non-standard environmental authority (mining activities).

Subdivision 2—Assessment level decision

Assessment level and EIS decisions for application

34IJ.(1) The administering authority must, within the period prescribed under a regulation, decide—

- (a) whether, were the amendment to be made, the level of environmental harm caused by any relevant mining activity is likely to be significantly increased; and
- (b) if the decision under paragraph (a) is that the level is likely to be significantly increased—whether an EIS is required for the proposed amendment.

(2) The authority must, in making a decision under subsection (1) consider the standard criteria.

(3) The decision under subsection(1)(a) is called the “**assessment level decision**” for the amendment application.

(4) The decision under subsection (1)(b) is called the “**EIS decision**” for the amendment application.

Ministerial decision about assessment level and EIS decisions

34IK.(1) This section applies despite an assessment level decision by the administering authority.

(2) The EPA Minister may, at any time before the application is decided under this division, make the assessment level decision.

‘(3) If the Minister’s decision is that the level of environmental harm is likely to be significantly increased, the Minister must also decide whether an EIS is required for the proposed amendment.

‘(4) If the Minister decides an EIS is not required, the Minister must decide at what stage, or step within a stage, under the provisions applied under section 34IO,⁸⁵ the processing of the application must start or resume.

‘(5) However, the stage or step must not be after the giving of the draft environmental authority for the amendment application.

‘(6) The deciding of the application must start or resume at the stage or step decided by the Minister.

‘(7) The Minister must, in making a decision under this section, consider the standard criteria.

‘Automatic refusal if EIS required

‘**34IL.(1)** The administering authority must refuse the amendment application if the EIS decision is that an EIS is required for the proposed amendment.

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

- (a) the decision, and the reasons for it; and
- (b) that the decision does not stop the applicant from applying for another environmental authority (mining activities) for the activities the subject of the application.

‘(3) However, despite subsection (1), if the decision was made by the administering authority and the Minister, under section 34IK(3), decides an EIS is not required for the proposed amendment—

- (a) the refusal is taken to be of no effect; and
- (b) the administering authority must, within 10 business days after the Minister’s decision is made, give the applicant a written notice

⁸⁵ Section 34IO (Relevant application process applies)

stating—

- (i) the Minister’s decision; and
- (ii) the stage, or step within a stage, that the Minister has under section 34IK(4) decided the processing of the application must start or resume.

‘Notice of assessment level decision

‘34IM.(1) This section applies if the administering authority or the Minister has made the assessment level decision and the EIS decision is that an EIS is not required for the proposed amendment.

‘(2) The authority must, within 10 business days, give the applicant a written notice stating—

- (a) the assessment level decision, and the reasons for it; and
- (b) if the Minister made the decision—the stage or step within a stage decided by the Minister under the provisions applied under section 34IO for the processing of the application to start or resume.

‘Subdivision 3—Process if decision is significant increase in environmental harm likely and EIS not required

‘Application of sdiv 3

‘34IN. This subdivision applies—

- (a) if the assessment level decision for the amendment application is that the level of environmental harm is likely to be significantly increased; and
- (b) the EIS decision is that an EIS is not required for the proposed amendment.

‘Relevant application process applies

‘34IO.(1) If the environmental authority is an environmental authority (exploration) or an environmental authority (mineral development), part 5, division 3, subdivisions 3 and 4, apply as if the application were an application for that type of environmental authority.

‘(2) If the environmental authority is an environmental authority (mining lease), part 6, divisions 3 to 8, apply as if the application were an environmental authority (mining lease) application.⁸⁶

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

- (a) with any other necessary changes; and
- (b) subject to sections 34IP to 34IS.

‘Refusal on ground that replacement environmental authority needed

‘34IP.(1) For applying section 34GI or 34GW,⁸⁷ the administering authority may refuse the application on the ground that it would be more appropriate for the applicant to seek the amendment by replacement of the environmental authority.

‘(2) Subsection (1) does not limit the grounds on which the application may be refused.

‘Previous environmental management document may be amended

‘34IQ.(1) The applicant may comply with the environmental management document requirements for the application by submitting an amended version of the environment management document submitted for the application for the environmental authority.

⁸⁶ Part 5, division 3, subdivisions 3 (Environmental management document stage) and 4 (Decision stage)

Part 6, divisions 3 (Environmental management document stage for non-standard applications), 4 (Decision to refuse or to allow to proceed), 5 (Draft environmental authority stage), 6 (Public notice and objections stage for all applications), 7 (Decision stage) and 8 (Miscellaneous provisions)

⁸⁷ Sections 34GI (Deciding application) and 34GW (Administering authority may refuse application)

‘(2) However, the amendments must comply with the environmental management document requirements.

‘(3) If an amended version is submitted, it is taken to be the submitted environment management document for any later amendment application for the environmental authority.

‘(4) In this section—

“environmental management document requirements” means the provisions about environmental management documents applied under section 34IO.

‘Public notice of application

‘**34IR.(1)** This section applies for publication of the application notice for the amendment application for an environmental authority (mining lease), instead of section 34HA.⁸⁸

‘(2) Within 10 business days after the applicant is given the draft environmental authority, the applicant must—

- (a) give the application notice to each affected person for each relevant mining lease; and
- (b) publish the notice—
 - (i) at least once in a newspaper circulating in the locality of the land to which the mining lease is subject; and
 - (ii) in any other 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.

‘(4) In this section—

“affected person” means an entity that would be an affected person if—

- (a) the amendment application were a project; and

⁸⁸ Section 34HA (Public notice of application)

- (b) the operational land for the project is each relevant mining lease for the environmental authority.

‘Objection period

‘**34IS.(1)** Despite section 34HB(2),⁸⁹ the objection period for the application is the period fixed by the administering authority by written notice to the applicant.

‘(2) 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 34IR.

‘Subdivision 4—Process if decision is significant environmental harm increase unlikely

‘Application of sdiv 4

‘**34IT.** This subdivision applies if the assessment level decision for the amendment application is that the level of environmental harm is unlikely to be significantly increased.

‘Deciding application

‘**34IU.(1)** The administering authority must, within the period prescribed under a regulation, decide either to grant or refuse the application.

‘(2) In making the decision, the authority must—

- (a) comply with any relevant EPP requirement; and
- (b) subject to paragraph (a)—consider the standard criteria.

‘Steps after making decision

‘**34IV.(1)** If the administering authority decides to grant the application, it must, within 10 business days after the decision is made—

⁸⁹ Section 34HB (Required content of application notice)

- (a) amend the environmental authority to give effect to the amendment; and
- (b) record particulars of the amendment in the appropriate register; 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 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.

‘PART 9—TRANSFER OF AUTHORITIES

‘Division 1—Transfer applications

‘Transfer only by approval

‘34IW.(1) An environmental authority (mining activities) may be transferred to a person who does not already hold the environmental authority only if—

- (a) an application for the transfer has been made under this division (a “**transfer application**”); and
- (b) the administering authority has approved the transfer.

‘(2) However, despite subsection (1), if 2 or more persons jointly hold an environmental authority, it may be amended under part 8 or 12⁹⁰ to remove 1 or more of the holders from the authority if, were the amendment to be made, there would be at least 1 holder of the authority.

⁹⁰ Part 8 (Amendment of authorities by application) or 12 (Amendment, cancellation or suspension by administering authority)

‘(3) Despite subsection (1), an environmental authority (prospecting) can not be transferred.

‘Requirements for transfer application

‘34IX.(1) A transfer application must be—

- (a) made to the administering authority in the approved form; and
- (b) made by the following (the “**applicants**”)—
 - (i) the holder of the environmental authority;
 - (ii) the proposed transferee; and
- (c) supported by enough information to enable the administering authority to decide the application; and
- (d) accompanied by the fee prescribed under a regulation.

‘(2) The applicants may, together with the transfer application, also make an amendment application for the environmental authority.

‘(3) Part 8⁹¹ applies, with necessary changes, to the amendment application as if a reference to the environmental authority holder were a reference to the applicants.

‘(4) However, the amendment application must not be granted before the transfer application is granted or if the transfer application is refused.

‘Audit statement may be required

‘34IY.(1) The administering authority may, within 20 business days after the transfer application is made, require the applicants to give it an audit statement for the relevant environmental authority.

‘(2) The audit statement must—

- (a) be made by or for the environmental authority holder; and

⁹¹ Part 8 (Amendment of authorities by application)

- (b) state the extent to which activities carried out under each relevant mining tenement have complied with the conditions of the environmental authority.

Division 2—Processing transfer applications

‘Deciding application

‘34IZ.(1) The administering authority must, within the later of the following periods to end, consider each transfer application and decide to approve or refuse the transfer—

- (a) if the applicants have been required to give an audit statement for the relevant environmental authority—20 business days after the giving of the audit statement;
- (b) otherwise—3 months after the application is received by the administering authority.

‘(2) The authority must, in making the decision, consider the following—

- (a) the standard criteria;
- (b) the proposed transferee’s ability to comply with the relevant standard environmental conditions;
- (c) any suitability report obtained for the application;
- (d) whether the proposed transferee has, under the Mineral Resources Act, applied to become the holder of each relevant mining tenement;
- (e) the status of any application under the Mineral Resources Act for, or relating to, each relevant mining tenement;
- (f) another matter prescribed under a regulation.

‘Refusal on ground that amendment required

‘34JA. Without limiting section 34IZ, the administering authority may refuse the application if—

- (a) the applicants did not, under 34IX(2), apply to amend the

environmental authority; and

- (b) the administering authority is satisfied that, if the application is granted, a ground for amending the environmental authority under section 34KD(2) would exist.⁹²

‘Steps after making decision

‘34JB.(1) If the administering authority decides to approve a transfer, it must—

- (a) amend the relevant environmental authority to give effect to the transfer within 10 business days after the decision is made; and
- (b) record particulars of the transfer in the appropriate register and give the transferee a copy of the amended environmental authority within 10 business days after the later of the following events happens—
- (i) the making of the decision;
- (ii) the transferee becomes the holder of each relevant mining tenement for the environmental authority;
- (iii) if a person, other than the transferee, holds a relevant mining tenement—the person ceases to be a holder of the tenement.

‘(2) If the administering authority decides to refuse a transfer, it must, within 10 business days after the decision is made, give the applicants an information notice about the decision.

‘Effect of plan of operations and environmental management documents after transfer

‘34JC. The environmental management documents and any submitted plan of operations for an environmental authority (mining activities) apply to the holder of a transferred authority to the extent they apply to the relevant mining activities under the transferred authority.

⁹² Sections 34IX (Requirements for transfer application) and 34KD (Other amendments—non-standard authorities)

‘Notice to owners of transfer

‘**34JD.(1)** This section applies if a transferee is given a copy of the amended environmental authority under section 34JB.

‘(2) The transferee must within 10 business days give each owner of the land to which the environmental authority relates written notice that the authority has been transferred to the transferee.

Maximum penalty for subsection (2)—10 penalty units.

‘PART 10—SURRENDER OF AUTHORITIES***‘Division 1—General provisions for surrender*****‘Prospecting permit can not be surrendered**

‘**34JE.** This part does not apply for an environmental authority (prospecting).

‘Surrender only by approval

‘**34JF.(1)** An environmental authority (mining activities) may be surrendered only if—

- (a) an application for the surrender has been made under division 2 (a “**surrender application**”); and
- (b) the administering authority has approved the surrender.

‘(2) A holder of an environmental authority (mining activities) must make a surrender application if required under section 34JH.

‘(3) The holder may make a surrender application at any other time.

‘Surrender may be partial

‘**34JG.(1)** The administering authority may approve a surrender

application for a part of an environmental authority (mining activities).

‘(2) Without limiting sections 34JO and 34JP,⁹³ the administering authority may refuse the application if—

- (a) the applicant has not made an amendment application for the part of the environmental authority not sought to be surrendered; and
- (b) the administering authority considers that it is appropriate to amend the environmental authority to reflect the partial surrender.

‘When surrender application required

‘**34JH.(1)** This section applies to the holder of an environmental authority (mining activities).

‘(2) If a relevant mining tenement is cancelled, the holder must, within 30 days, make a surrender application for each part of the authority relating to the tenement.

‘(3) The holder must make a surrender application for each part of the authority relating to a relevant mining tenement within the period prescribed under a regulation before the tenement is, according to its conditions, to end other than by cancellation.

‘(4) However, subsection (3) does not apply if, before the prescribed period starts—

- (a) the mining tenement is, under the Mineral Resources Act—
 - (i) renewed or continued in force;⁹⁴ or
 - (ii) consolidated with another mining tenement; or
- (b) a replacement environmental authority is issued to the holder.

⁹³ Sections 34JO (Deciding application) and 34JP (Criteria for decision)

⁹⁴ See the Mineral Resources Act, sections 93(5) (Renewal of mining claim), 147(2) (Renewal of exploration permit), 197(4) (Renewal of mineral development licence), 286(7) (Renewal of mining lease) and parts 14, division 5 (Renewals of mining claims), 15, division 5 (Renewals of exploration permits), 16, division 5 (Renewals of mineral development licences) and 17, division 5 (Renewals of mining leases).

‘Notice by administering authority to make surrender application

‘34JL.(1) This section applies if—

- (a) section 34JH(2) or (3) applies to the holder of an environmental authority (mining activities); and
- (b) the holder has not complied with the subsection.

‘(2) The administering authority may, by written notice (a **“surrender notice”**), require the holder to make a surrender application for the environmental authority within a stated a stated period of at least 10 business days.

‘(3) The surrender notice must be accompanied by, or include, an information notice about the authority’s decisions to make the requirement and to fix the stated period.

‘Failure to comply with surrender notice

‘34JJ. 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.

*‘Division 2—Surrender applications**‘Subdivision 1—Requirements for surrender applications***‘Requirements**

‘34JK.(1) A surrender application must be—

- (a) in the approved form; and
- (b) supported by enough information to allow the administering authority to decide the application; and
- (c) accompanied by—
 - (i) a final rehabilitation report for the environmental authority; and

- (ii) an audit statement for the environmental authority; and
- (iii) the fee prescribed under a regulation.

‘(2) The audit statement must—

- (a) be made by or for the environmental authority holder; and
- (b) state—
 - (i) the extent to which activities carried out under the environmental authority have complied with the conditions of the authority; and
 - (ii) the extent to which the final rehabilitation report is accurate.

‘Subdivision 2—Final rehabilitation reports

‘Content requirements for report

‘34JL. A final rehabilitation report must—

- (a) be in the approved form; and
- (b) state the extent to which activities carried out under each relevant mining tenement to which the surrender application relates have been consistent with the environmental protection commitments under any relevant environmental management document; and
- (c) include enough information to allow the administering authority to decide whether—
 - (i) the conditions of the environmental authority (mining activities) have been complied with; and
 - (ii) the land on which each relevant mining activity has been carried out has been satisfactorily rehabilitated; and
- (d) describe any ongoing environmental management needs for the land; and
- (e) include another matter prescribed under a regulation.

‘Amending report

‘34JM.(1) This section applies if a person has submitted a final rehabilitation report (the **“original report”**).

‘(2) The person may amend the original report at any time before the administering authority decides the application.

‘(3) However, an amendment may be made only by giving the authority written notice stating the amendment (an **“FRR amendment notice”**).

‘(4) A FRR amendment notice must be accompanied by the fee prescribed under a regulation.

‘(5) The submitted final rehabilitation report is taken to be the original report, as amended from time to time by any FRR amendment notice given for the original report.

‘FRR assessment report may be given

‘34JN.(1) The administering authority may give the person who submitted a final rehabilitation report an assessment report (an **“FRR assessment report”**) about the final rehabilitation report.

‘(2) However, the FRR assessment report must be given within the period prescribed under a regulation.

‘Subdivision 3—Processing surrender applications

‘Deciding application

‘34JO. The administering authority must consider each surrender application and decide, within the period prescribed under a regulation, to either approve or refuse the surrender.

‘Criteria for decision

‘34JP.(1) In deciding a surrender application, the administering authority must—

- (a) comply with any relevant EPP requirement; and

- (b) subject to paragraph (a), consider the following—
 - (i) the standard criteria;
 - (ii) the final rehabilitation report for the environmental authority;
 - (iii) the audit statement for the environmental authority, or part of the environmental authority, the subject of the application;
 - (iv) any relevant FRR assessment report;
 - (v) another matter prescribed under an environmental protection policy or a regulation.

‘(2) The authority must not grant the application unless—

- (a) it is satisfied the conditions of the environmental authority (mining activities) have been complied with; or
- (b) it is satisfied the land on which each relevant mining activity has been carried out has been satisfactorily rehabilitated; or
- (c) it has approved an environmental management program and it is satisfied the land will be satisfactorily rehabilitated under the program; or
- (d) a suitability statement has been given for the land and—
 - (i) the land has been removed from the environmental management register; or
 - (ii) a site management plan has been approved for the land; or
- (e) if a regulation has prescribed another circumstance for this section—the administering authority is satisfied of the circumstance.

‘Steps after making decision

‘34JQ. If the administering authority decides a surrender application, it must, within 10 business days after the decision is made—

- (a) if the decision was to approve the application—
 - (i) record particulars of the surrender in the appropriate register; and

- (ii) give the applicant written notice of the decision; or
- (b) if the decision was to refuse the application—give the applicant an information notice about the decision.

‘PART 11—ENVIRONMENTAL AUDITS FOR MINING ACTIVITIES

‘Division 1—Audit requirements

‘Administering authority may require environmental audit

‘34JR.(1) The administering authority may, by written notice (an **“audit notice”**) require the holder of an environmental authority (mining activities) to—

- (a) conduct or commission an environmental audit about a stated matter concerning a relevant mining 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 mining project is causing compared with the environmental harm authorised under the environmental authority or anticipated under relevant environmental management documents.
3. Whether a plan of operations for an environmental authority (mining lease) 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 authority an environmental audit report about the audit.

‘(2) However, the audit notice must not be given unless the authority is reasonably satisfied the audit is necessary or desirable.

‘(3) The audit notice must state the following—

- (a) the holder's name;
- (b) the environmental authority (mining activities);
- (c) the matter for which the environmental audit is required;
- (d) that the holder must, within a stated reasonable period—
 - (i) conduct or commission the environmental audit; and
 - (ii) give the administering authority an environmental audit report about the audit.

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

‘Failure to comply with audit notice

‘**34JS.** A person to whom an audit notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

‘Costs of complying with audit notice

‘**34JT.** A person to whom an audit notice has been given must pay any costs incurred by the person in relation to complying with the notice.

‘Division 2—Audits by administering authority

‘Administering authority may conduct environmental audit

‘**34JU.(1)** The administering authority may decide to—

- (a) conduct or commission an environmental audit about a stated matter concerning an environmental authority (mining activities);
or
- (b) prepare an environmental audit report about the audit.

‘(2) However, the authority may make a decision under subsection (1) only if it is reasonably satisfied the audit 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 audit report, give the environmental authority holder a copy of it.

‘Administering authority’s costs of environmental audit or report

‘**34JV.(1)** This section applies if the administering authority has under section 34JU, incurred costs in conducting or commissioning an environmental audit or preparing an environmental audit report.

‘(2) The holder of the relevant environmental authority (mining activities) must pay the amount of the costs if—

- (a) the costs were properly 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—Auditors and conduct of environmental audits

‘Appointment of auditors

‘**34JW.(1)** The administering authority may appoint an individual as an auditor if it is satisfied the individual has the qualifications prescribed under a regulation.

‘(2) Subsection (1) does not limit the issues the authority may consider when deciding whether to appoint someone as an auditor.

‘Appointment conditions and term

‘**34JX.(1)** The appointment of an auditor is subject to the conditions stated in the auditor’s instrument of appointment.

‘(2) The conditions may, for example, limit the environmental audits the auditor may conduct to a stated type of environmental audit.

‘(3) The auditor must comply with the conditions, unless the auditor has a reasonable excuse for not complying with them.

Maximum penalty—100 penalty units.

‘(4) If the instrument provides for a term of appointment, the auditor ceases to hold office at the end of the term.

‘Who may conduct environmental audit

‘34JY.(1) An environmental audit may be conducted only by—

- (a) the administering authority; or
- (b) an auditor whose instrument of appointment allows the auditor to conduct the audit.

‘(2) Despite subsection (1)(b), a person must not conduct an environmental audit—

- (a) if a regulation disqualifies or prohibits the person from conducting the audit; or
- (b) in a circumstance prescribed under a regulation.

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

‘Impersonation of auditor

‘34JZ. A person must not pretend to be an auditor.

Maximum penalty—100 penalty units.

‘Division 4—Miscellaneous provisions

‘False or misleading information about environmental audits

‘34KA.(1) A person must not state anything, or give a document, to an auditor who is conducting an environmental audit that the person knows is false or misleading in a material particular.

Maximum penalty—165 penalty units.

‘(2) An auditor must not make an environmental audit report that the auditor knows is false or misleading in a material particular.

Maximum penalty—165 penalty units.

‘(3) It is enough for a complaint for an offence against this section to state the statement or document was ‘false or misleading’ to the auditor’s or person’s knowledge, without specifying which.

‘PART 12—AMENDMENT, CANCELLATION OR SUSPENSION BY ADMINISTERING AUTHORITY

‘Division 1—Conditions for amendment, cancellation or suspension

‘Subdivision 1—Amendments

‘Corrections

‘**34KB.** The administering authority may amend an environmental authority (mining activities) to correct a clerical or formal error (a “**correction**”) if—

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

‘Other amendments—standard authorities

‘**34KC.(1)** The administering authority may amend a standard environmental authority (mining activities) at any time if—

- (a) either—
 - (i) it considers the amendment necessary or desirable and that, if the amendment were to be made, each relevant mining activity would still be a standard mining activity; or

- (ii) the amendment is to reflect a change in the relevant standard environmental conditions; and
- (b) the procedure under division 2 is followed or the holder has agreed in writing to the amendment.

‘(2) However, in making the decision, the administering authority must consider the following—

- (a) the standard criteria;
- (b) the applicant’s ability to comply with the relevant standard environmental conditions;
- (c) any suitability report obtained for the application.

‘Other amendments—non-standard authorities

‘**34KD.(1)** The administering authority may amend a non-standard environmental authority (mining activities) at any time if—

- (a) it considers the amendment necessary or desirable; and
- (b) the procedure under division 2 is followed or the holder has agreed in writing to the amendment.

‘(2) For subsection (1)(b), the grounds are as follows—

- (a) a contravention of this Act by the holder;
- (b) the environmental authority was issued because of a materially false or misleading representation or declaration, made either orally or in writing;
- (c) financial assurance required under a condition of the environmental authority has not been given in the amount or in the form required under the condition;
- (d) the environmental authority was issued on the basis of a miscalculation of—
 - (i) the environmental values affected or likely to be affected, by a relevant mining activity; or
 - (ii) the quantity or quality of contaminant authorised to be released into the environment; or

-
- (iii) the effects of the release of a quantity or quality of contaminant authorised to be released into the environment;
 - (e) a change in the way in which, or the place where, contaminants are, or are likely to be, released into the environment;
 - (f) the approval of an environmental protection policy or the approval of the amendment of an environmental protection policy;
 - (g) an environmental audit or report, or an audit statement given under this chapter;
 - (h) an environmental audit or report given under chapter 3;⁹⁵
 - (i) a final rehabilitation report;
 - (j) an annual return required under this Act;
 - (k) for an environmental authority (mining lease), a change provided for, or other matter stated in, an amendment to or replacement of the plan of operations for the environmental authority;
 - (l) a significant change in the way in which, or the extent to which, an activity under the environmental authority is being carried out;

Example of 'significant change' for paragraph (l)—

The EMOS for an environmental authority (mining lease) application was based on a particular method for removing contaminants from a waste stream for a relevant mining activity. The conditions for the authority were fixed on the basis of the EMOS. The authority is transferred and the transferee changes the method.

- (m) the amount or form of any financial assurance given or required for the environmental authority is no longer appropriate because of—
 - (i) a change in the degree of environmental harm caused, or that may be caused, by a relevant mining activity; or
 - (ii) the environmental record of the authority holder;
- (n) the amendment is necessary to prevent environmental harm not already authorised under the environmental authority;

⁹⁵ Chapter 3 (Environmental management)

- (o) an amendment proposed under an amendment application;
- (p) another circumstance prescribed under a regulation.

‘(3) Subsection (2)(l) applies even if an environmental management document or plan of operations mentions or provides for the change.

‘Subdivision 2—Cancellation or suspension

‘Conditions

‘**34KE.(1)** The administering authority may cancel or suspend an environmental authority (mining activities) if—

- (a) a replacement environmental authority is issued for the environmental authority; or
- (b) an event mentioned in subsection (2) has happened and the procedure under division 2 is followed.

‘(2) For subsection (1)(b), the events are as follows—

- (a) the environmental authority was issued because of a materially false or misleading representation or declaration, 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 condition;
- (c) the environmental authority holder is, after the issue of the environmental authority, convicted of an environmental offence;
- (d) after the environmental authority has taken effect⁹⁶—
 - (i) the environmental authority holder no longer holds any relevant mining tenement; or
 - (ii) a person, other than the environmental authority holder, becomes a holder of a relevant mining tenement;

⁹⁶ For when an environmental authority takes effect, see section 34KO (Restrictions on authority or transfer taking effect).

- (e) the holder has been given an annual notice, audit notice or surrender notice and the notice has not been complied with.

***Division 2—Procedure for amendment without agreement or for
cancellation or suspension***

‘Application of div 2

‘34KF. This division applies if the administering authority proposes to—

- (a) amend an environmental authority (mining activities), other than—
 - (i) to make a correction; or
 - (ii) with the written agreement of the environmental authority holder; or
- (b) cancel or suspend an environmental authority.

‘Notice of proposed action

‘34KG.(1) The administering authority must give the environmental authority holder a written notice stating 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 amend the environmental authority—the proposed amendment;
- (e) if the proposed action is to suspend the environmental authority—the proposed suspension period;
- (f) that the holder 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 holder

is given the proposed action notice.

‘(3) For subsection (1)(e), 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.

‘**Considering representations**

‘**34KH.** The administering authority must consider any written representation made within the period stated in the notice under section 34KG by the environmental authority holder.

‘**Decision on proposed action**

‘**34KI.(1)** If, after complying with section 34KH, the administering authority still believes a ground exists to take the proposed action, it may—

- (a) if the proposed action was to amend the environmental authority in a stated way—make the amendment; or
- (b) if the proposed action was to suspend the environmental authority for a stated period—suspend the environmental authority for no longer than the proposed suspension period; or
- (c) 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 called the “**proposed action decision**”.

‘(3) If the administering authority at any time decides not to take the proposed action, it must promptly give the holder written notice of the decision.

‘Notice of proposed action decision

‘34KJ.(1) The administering authority must, within 10 business days after making the proposed action decision—

- (a) for a decision to amend a standard environmental authority (mining activities)—give the environmental authority holder a written notice stating the decision and the reasons for it; or
- (b) for a decision other than to amend a standard environmental authority (mining activities)—give the environmental authority holder an information notice about the decision.

‘(2) 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.

‘(3) 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

‘Steps for corrections

‘34KK. If the administering authority amends an environmental authority to make a correction, it must, within 10 business days after giving notice of the correction under section 34KB(b)⁹⁷—

⁹⁷ Section 34KB (Corrections)

- (a) amend the environmental authority to give effect to the amendment; and
- (b) record particulars of the amendment in the appropriate register.

‘Steps for amendment by agreement

‘34KL. If, under division 1, subdivision 1, the administering authority amends an environmental authority with the environmental authority holder’s agreement, it must, within 10 business days—

- (a) amend the environmental authority to give effect to the amendment; and
- (b) record particulars of the amendment in the appropriate register; and
- (c) give the holder a copy of the amended environmental authority.

‘Steps for amendment without agreement or for cancellation or suspension

‘34KM.(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 appropriate 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.

‘(4) If the action is to amend the environmental authority, the administering authority must also give the environmental authority holder a copy of the amended environmental authority as soon as practicable.

‘PART 13—MISCELLANEOUS PROVISIONS

‘Division 1—Advice from MRA chief executive

‘Requirement to seek advice from MRA chief executive

‘34KN.(1) The administering authority must, before it takes any of the following steps, seek advice from the chief executive of the MRA department—

- (a) make a decision to refuse a surrender or transfer application, unless a proposed reason for the refusal is that a relevant mining tenement has not been assigned or surrendered under the Mineral Resources Act;
- (b) make a proposed action decision if the holder of the relevant environmental authority has not agreed in writing to the decision;
- (c) make another decision under this part about a non-standard application or a non-standard environmental authority (mining activities), to which decision the applicant or authority holder has not agreed in writing;
- (d) give a draft environmental authority for an environmental authority (mining lease) application if it is a non-standard application.

‘(2) The advice may be sought in the way the administering authority considers appropriate.

‘(3) The advice sought may be given only within the time required under this chapter for the administering authority to take the step.

‘(4) A contravention of this section does not invalidate the decision or the environmental authority (mining activities) to which it relates.

‘Division 2—When authorities or transfers take effect

‘Restrictions on environmental authority or transfer taking effect

‘34KO.(1) This section applies if an environmental authority (mining activities) is, or must be—

- (a) issued under this chapter; or
- (b) issued or amended to give effect to a transfer under this chapter.

‘(2) If the environmental authority states a day or an event for the authority or transfer to take effect, the authority or transfer takes effect on the stated day or when the stated event happens.

‘(3) If no day or event is stated, the environmental authority or transfer takes effect on the later of the following happens—

- (a) the granting, under the Mineral Resources Act, of each relevant mining tenement;
- (b) each environmental authority holder has become a holder of a relevant mining tenement;
- (c) if a person, other than an environmental authority holder, is a holder of any relevant mining tenement—the person ceases to be a holder of the tenement;
- (d) if the environmental authority states a day or an event for the authority or transfer to take effect—the stated day or when the stated event happens.

‘Division 3—General provisions for applications and conditions

‘Grounds for refusing application for or to transfer environmental authority

‘34KP.(1) A refusal decision may be made for an application for, or to transfer, an environmental authority (mining activities) if—

- (a) the decision-maker is satisfied the proposed holder is not a suitable person to hold an environmental authority; or

- (b) a disqualifying event has happened in relation to the proposed holder or another person of whom the person is a partner; or
- (c) if the proposed holder is a corporation, a disqualifying event has happened in relation to—
 - (i) any of its executive officers; or
 - (ii) another corporation of which any of its executive officers is, or has been, an executive officer.

‘(2) In deciding whether a proposed holder is suitable person to hold an environmental authority, the decision-maker must consider all relevant matters, including, for example—

- (a) the proposed holder’s environmental record; and
- (b) the proposed holder’s ability to comply with any conditions or proposed conditions of the environmental authority or proposed environmental authority.

‘(3) In this section—

“**refusal decision**” means—

- (a) a decision by the administering authority under this chapter to refuse the application or transfer; or
- (b) an objections decision recommending the application be refused; or
- (c) a Minister’s decision that the application be refused.⁹⁸

‘**Conditions that may be made**

‘**34KQ.(1)** This section applies for the doing or making of any of the following (a “**relevant act**”)—

- (a) imposing or amending a condition for an environmental authority (mining activities);
- (b) deciding a proposed condition for a draft environmental authority;
- (c) an objections decision recommending a condition;

⁹⁸ See chapter 7, part 2, division 3 (Investigating suitability).

- (d) the Minister, in making the Minister's decision for an application, deciding to impose a condition;
- (e) the granting, or the amendment, cancellation, surrender, suspension or transfer, of or other dealing with, an environmental authority (mining activities);
- (f) recommending, under the State Development Act, section 29Y,⁹⁹ a condition that must be attached to a draft environmental authority.

(2) A relevant act may—

- (a) require the environmental authority holder to do all or any of the following—
 - (i) install and operate stated plant or equipment in a stated way within a stated period;
 - (ii) take stated measures to minimise the likelihood of environmental harm being caused;
 - (iii) carry out and report on a stated monitoring program;
 - (iv) prepare and carry out an environmental management program;
 - (v) give relevant information reasonably required by the administering authority for the administration or enforcement of this Act;
 - (vi) carry out or report about stated rehabilitation or remediation work relating to the environmentally relevant activity the subject of the environmental authority; or
- (b) prohibit the holder from changing, replacing or operating any plant or equipment installed in the licensed place if the change, replacement or operation increases, or is likely to substantially increase, the risk of environmental harm; or

⁹⁹ State Development Act, section 29Y (Application of Coordinator-General's report to other approval process)

- (c) include a condition under section 115¹⁰⁰ requiring the giving of financial assurance; or
- (d) provide that the environmental authority ceases, or ceases to have effect—
 - (i) on a stated day; or
 - (ii) when a stated period ends; or
 - (iii) on the happening of a stated event; or
 - (iv) if a stated event has not happened on or before a stated day.

Example of a 'stated event'—

The granting of a relevant mining tenement.

‘(3) To remove any doubt, it is declared that a condition may be imposed even if it imposes an obligation on the environmental authority holder that continues to apply after the authority has ended or ceased to have effect.

Example for subsection (3)—

A condition may be about the following—

1. Rehabilitation of the land to which the authority relates after the authority has ended;
2. A final rehabilitation report or site management plan for the land.

‘(4) Subsection (2) does not limit the conditions that may be made by a relevant act.

‘Additional conditions override standard environmental conditions

‘34KR.(1) This section applies if—

- (a) an environmental authority (mining activities) contains standard environmental conditions and an additional condition; and
- (b) there is any inconsistency between a standard environmental condition and the additional condition.

‘(2) The additional condition prevails to the extent of the inconsistency.

¹⁰⁰ Section 115 (When financial assurance may be required)

‘Division 4—Principal holder of authority

‘Application of div 4

‘34KS. This division applies if 2 or more persons jointly hold an environmental authority (mining activities).

‘Appointment of principal holder

‘34KT.(1) A person is taken to have been appointed as the principal holder of the environmental authority if—

- (a) immediately before the issue of the environmental authority, the person held appointment under section 34FA(1)¹⁰¹ as the principal applicant for the application for the environmental authority; and
- (b) the person’s appointment has not been cancelled under that section.

‘(2) The holders of the environmental authority may, by a signed notice from all of them to the administering authority—

- (a) appoint 1 of them as the principal holder of the environmental authority; or
- (b) cancel the appointment of a principal holder.

‘Effect of appointment

‘34KU. If a holder of the environmental authority holds appointment as its principal holder—

- (a) the principal holder may, for all holders of the environmental authority, give or submit to the administering authority a notice or other document relating to the environmental authority; and
- (b) the administering authority may—
 - (i) give a notice or other document relating to the environmental

¹⁰¹ Section 34FA (Appointment of principal applicant)

authority to all the holders by giving it to the principal holder;
or

- (ii) make a requirement under this Act relating to the environmental authority of all the holders by making the requirement of the principal holder.

Division 5—Death of authority holder

‘Personal representative becomes the holder

‘34KV. If the holder of an environmental authority (mining activities) dies, the personal representative of the holder’s estate is taken to be the holder of the authority.

**‘CHAPTER 2D—GENERAL PROVISIONS ABOUT
ENVIRONMENTAL AUTHORITIES**

‘PART 1—INTEGRATED AUTHORITIES

‘Integrated authority may be issued

‘34KW.(1) The administering authority may accept a single application for an environmental authority from an applicant for different activities carried out by the applicant or activities carried out by the applicant at different places.

‘(2) If the authority grants the application, it may issue 1 or more environmental authorities, for the activities.

‘(3) To remove any doubt it is declared that subsections (1) and (2) apply for any type or types of environmental authority under chapter 2B or 2C,¹⁰²

¹⁰² Chapters 2B (Development approvals and environmental authorities other than for mining activities) and 2C (Environmental authorities for mining activities)

in any combination.

‘(4) An environmental authority issued under subsection (2) is called an **“integrated authority”**’.

‘Requirements for integrated authority application

‘**34KX.(1)** A person may, by a single application, apply for an integrated authority.

‘(2) However—

- (a) the application must be accompanied by a submission for an integrated environmental management system (an **“IEMS submission”**) for the activities; and
- (b) any requirements under chapter 2B or 2C applying to the application must be complied with.

‘IEMS submission—content requirements

‘**34KY.(1)** An IEMS submission must address the following matters about carrying out the activities the subject of the application—

- (a) the monitoring of releases of contaminants into the environment and an environmental assessment of the releases;
- (b) staff training and awareness of environmental issues;
- (c) the conduct of environmental and energy audits;
- (d) waste prevention, treatment and disposal;
- (e) a program for continuous improvement;
- (f) reporting arrangements on the effectiveness of the environmental management of the activities.

‘(2) The submission may address a matter mentioned in subsection (1) by reference to a relevant EIS or environmental management document.

‘Requirements for integrated authority

‘34KZ. An integrated authority must state the following—

- (a) each environmentally relevant activity for which the authority is given;
- (b) each type of environmental authority that forms the integrated authority;
- (c) each environmentally relevant activity for which each stated type is given;
- (d) the conditions applying to each stated type.

‘Effect of issue of integrated authority

‘34LA. Each stated type of environmental authority that forms an integrated authority is taken to be an environmental authority of that type.

‘PART 2—MISCELLANEOUS PROVISIONS**‘Annual fee and return**

‘34LB.(1) This section applies for an environmental authority, other than—

- (a) a level 1 or 2 approval; or
- (b) a standard environmental authority (mining activities).

‘(2) At least 30 days before each anniversary day for the environmental authority, the administering authority must give the environmental authority holder written notice (an **“annual notice”**) requiring the holder to—

- (a) pay the authority the appropriate annual fee, other than for a type of environmental authority or in a circumstance prescribed under a regulation for this paragraph; and
- (b) give the authority an annual return in the approved form.

‘(3) An annual notice must state that if the holder does not comply with the notice, the environmental authority may be cancelled or suspended.¹⁰³

‘(4) Also, if the annual fee is not paid, the administering authority may recover it as a debt.

‘Reference to environmental authority includes its conditions

‘34LC. A reference in this Act to an environmental authority or a proposed environmental authority includes, if the context permits, a reference to the conditions of the authority or proposed authority.

‘Effect of Integrated Planning Act, s 6.1.44

‘34LD. The power under the Integrated Planning Act, section 6.1.44¹⁰⁴ to change or cancel a condition of a development approval for an environmentally relevant activity does not limit a power under this Act to amend, cancel or suspend an environmental authority.’

Omission of ch 3, pt 1 (Interpretation)

7. Chapter 3, part 1—

omit.

Omission of ch 3, pts 3–4C

8. Chapter 3, parts 3 to 4C—

omit.

Amendment of s 72 (When environmental audit required)

9.(1) Section 72(1)(a)—

¹⁰³ See sections 34DY and 34KE (Conditions).

¹⁰⁴ Integrated Planning Act, section 6.1.44 (Conditions may be changed or cancelled by assessment manager or concurrence agency in certain circumstances)

omit, insert—

‘(a) the holder of, or a person acting under, an environmental authority, other than a level 1 or 2 approval, is or has been, contravening a condition of the authority; or’.

(2) Section 72(1)(b) and (c), ‘is not complying with’—

omit, insert—

‘is, or has been, contravening’.

(3) Section 72—

insert—

‘(1A) The authority must, within 10 days after deciding to make the requirement, give the person an information notice about the decision.’.

Amendment of s 73 (When environmental investigation required)

10.(1) Section 73(1), ‘serious or material’—

omit.

(2) Section 73—

insert—

‘(1A) The authority must, within 10 days after deciding to make the requirement, give the person an information notice about the decision.’.

(3) Section 73—

insert—

‘(4) In this section—

“**activity**” includes rehabilitation or remediation work.’.

Amendment of s 76 (Administering authority to consider and act on environmental reports)

11. Section 76(2)(b)—

omit, insert—

‘(b) if the recipient is the holder of an environmental authority—amend the conditions of the authority; or’.

Amendment of s 82 (Administering authority may require draft program)

12.(1) Section 82(1), ‘a licence’—

omit, insert—

‘an environmental authority, other than a level 1 or 2 approval.’.

(2) Section 82(2)—

insert—

‘(c) that a condition of an environmental authority held by the person or public authority is, or has been, contravened.’.

(3) Section 82(4)—

insert—

‘(e) the review or appeal details.’.

Omission of s 86 (Administering authority may require additional information)

13. Section 86—

omit.

Amendment of s 94A (Application)

14. Section 94A(3), ‘result in less environmental harm’—

omit, insert—

‘not result in increased environmental harm’.

Omission of s 96 (Compliance with program)

15. Section 96—

omit.

Amendment of s 97 (Effect of compliance with program)

16.(1) Section 97(2)(a) and (3)(a), ‘a licence’—

omit, insert—

‘an environmental authority, other than a level 1 or 2 approval,’.

(2) Section 97(2), after ‘The holder’—

insert—

‘, or a person acting under the approval’.

Amendment of s 109 (When order may be issued)

17. Section 109(d)—

insert—

‘(v) a condition of a site management plan; or

(vi) an audit notice; or

(vi) a surrender notice.’.

Amendment of s 115 (When financial assurance may be required)

18.(1) Section 115(1) and (2)(a), ‘a licence’—

omit, insert—

‘an environmental authority, other than a level 1 or 2 approval,’.

(2) Section 115(1), from ‘the licensee or holder’—

omit, insert—

‘the holder of the environmental authority or approval to give the administering authority financial assurance as security for—

- (a) compliance with the environmental authority, environmental management program or site management plan and any conditions of the authority, program or plan; and
- (b) costs or expenses, or likely costs or expenses, mentioned in section 118.’.

(3) Section 115(2)(a)(i), after ‘being caused’—

insert—

‘, or that might reasonably be expected to be caused,’.

(4) Section 115(2)(a)(i), ‘the licence’—

omit, insert—

‘the environmental authority’.

(5) Section 115(2)(a)(ii) and (4), after ‘rehabilitate or restore’—

insert—

‘and protect’.

(6) Section 115(2)(a)(iii), ‘licensee or’—

omit.

Amendment of s 116 (Person may show cause why financial assurance should not be required)

19.(1) Section 116(1), ‘ a licence’—

omit, insert—

‘an environmental authority, other than an environmental authority (mining activities) or a level 1 or 2 approval,’.

(2) Section 116(1), ‘the licence’—

omit, insert—

‘the authority or approval’.

(3) Section 116(2)(c) and (4)(b), ‘licence’—

omit, insert—

‘environmental authority’.

(4) Section 116(4)(b), ‘licensee or’—
omit.

Amendment of s 117 (Application for amendment or discharge of financial assurance)

20.(1) Section 117(1)(a)—
omit, insert—

‘(a) the holder of an environmental authority subject to a condition that financial assurance be given;’.

(2) Section 117(1A), ‘apply in writing’—
omit, insert—

‘, in the approved form, apply’.

(3) Section 117—
insert—

‘(2A) If the financial assurance is for an environmental authority (mining activities), the administering authority may require the applicant to give it an audit statement for the assurance before deciding the application.

‘(2B) The audit statement must—

- (a) be made by or for the applicant; and
- (b) state the extent to which activities carried out under each relevant mining tenement have complied with the conditions of the environmental authority; and
- (c) state whether or not the amount of the financial assurance has been calculated in the way decided by the administering authority under section 115(3).’.

(4) Section 117(3)(b), from ‘written notice’—
omit, insert—

‘the applicant an information notice about the decision.’.

(5) Section 117(4)—

omit.

Amendment of s 118 (Claims on financial assurances)

21.(1) Section 118(1), after ‘incurs’—

insert—

‘, or might reasonably incur,’.

(2) Section 118(1)(a), ‘a licence or’—

omit, insert—

‘an environmental authority or’.

(3) Section 118(1)—

insert—

‘(c) to secure compliance with an environmental authority, environmental management program or site management plan or any conditions of the authority, program or plan, for which financial assurance has been given.’.

(4) Section 118(3), ‘the licensee or approval holder’—

omit, insert—

‘the authority or approval holder’.

(5) Section 118(4)(a), after ‘action taken’—

insert—

‘or proposed to be taken’.

(6) Section 118(7), from ‘or part of it,’—

omit, insert—

‘, it must, within 5 business days, give the holder an information notice about the decision.’.

(7) Section 118—

insert—

‘(8) In this section—

“**environmental authority**” includes a cancelled or surrendered environmental authority.

“**holder**”, for a cancelled or surrendered environmental authority, means the person who held the authority immediately before its cancellation or surrender.’.

Omission of s 118D (Meaning of “owner” for pt 9B)

22. Section 118D—

omit.

Replacement of ch 3, pt 9B, div 5, sdiv 3 (Compliance with site management plan)

23. Chapter 3, part 9B, division 5, subdivision 3—

omit, insert—

‘Subdivision 3—Restriction on local government approvals and authorities

‘Approval or authority must not allow contravention of site management plan

‘**118ZY.** A local government must not, under an approval or other authority under the Integrated Planning Act or any other Act, allow the use or development of, or an activity to be carried out on, land in a way that contravenes a site management plan for the land.’.

Amendment of s 118ZZF (Removal and disposal of contaminated soil)

24. Section 118ZZF, words before subsection (2)—

omit, insert—

‘Removal and treatment or disposal of contaminated soil

‘**118ZZF.(1)** A person must not, without a disposal permit—

- (a) remove and treat or dispose of contaminated soil from land for which particulars are recorded in the environmental management register or contaminated land register; or
- (b) bring into the State and treat or dispose of contaminated soil from contaminated land outside the State.

Maximum penalty—100 penalty units.’.

Insertion of new s 118ZZG

25. Chapter 3, part 9B, after section 118ZZF—

insert—

‘Failure to comply with disposal permit

‘118ZZG. The holder of, or a person acting under, a disposal permit, must comply with the conditions of the permit.

Maximum penalty—100 penalty units.’.

Replacement of ch 3, pt 10, hdg (Environmental offences)

26. Chapter 3, part 10, heading—

omit, insert—

‘CHAPTER 3A—GENERAL ENVIRONMENTAL OFFENCES

‘PART 1—OFFENCES RELATING TO ENVIRONMENTALLY RELEVANT ACTIVITIES

‘Division 1—Offences

‘Environmental authority required for level 1 environmentally relevant activity

‘118ZZH.(1) A person must not carry out a level 1 environmentally

relevant activity unless the person holds, or is acting under—

- (a) if the activity is a mining activity—a non-standard environmental authority (mining activities); or
- (b) if the activity is not a mining activity—a licence or a level 1 approval.

Maximum penalty—400 penalty units.

‘(2) This section is subject to section 34EGA.¹⁰⁵

‘Environmental authority or development approval required for level 2 environmentally relevant activity

‘**118ZZI.(1)** A person must not carry out a level 2 environmentally relevant activity unless—

- (a) a development approval has been given for the activity; or
- (b) the person holds, or is acting under—
 - (i) if the activity is a standard mining activity—a standard environmental authority (mining activities); or
 - (ii) if the activity is not a standard mining activity—a level 2 approval.¹⁰⁶

Maximum penalty—165 penalty units.

‘(2) This section is subject to section 34EGA.¹⁰⁷

‘New approval required for certain activities if significant change

‘**118ZZJ.(1)** This section applies if—

- (a) a person who holds a level 2 approval proposes to carry out

¹⁰⁵ Section 34EGA (Environmental authorities for new environmentally relevant activities).

¹⁰⁶ See section 34LA (Effect of issue of integrated authority).

¹⁰⁷ See also chapter 8, part 2, division 4, subdivision 2 (Special provisions for transitional authorities) and section 249 (Limited application of s 118ZZI for transitional authority).

works for the construction or alteration of a building or structure, or for the installation or alteration of plant or equipment, for carrying out the environmentally relevant activity concerned; and

- (b) the construction, alteration or installation will result in an increase of 10% or more in the release of contaminant into the environment under the approval.

‘(2) The person must not carry out the works without a level 2 approval to carry out the activity on the basis of the increased quantity of contaminant to be released into the environment.

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

‘Division 2—Exemptions

‘Special provisions for interstate transporters of controlled waste

‘**118ZZK.(1)** Sections 118ZZH and 118ZZI do not apply to a person carrying out the interstate transportation of controlled waste if—

- (a) the person holds, or is acting under, an interstate licence; and
- (b) the licence authorises the transportation; and
- (c) the conditions of the licence are, to the extent they are relevant to the transportation, complied with; and
- (d) a consignment authorisation or number for the transportation has been issued under the law of the State into which the waste is to be transported;¹⁰⁸ and
- (e) the following documents, or copies of the following documents, are carried in the vehicle transporting the waste while the waste is being transported in Queensland—
 - (i) the interstate licence;
 - (ii) the consignment authorisation or a document containing the

¹⁰⁸ For transportation into Queensland, see the *Environmental Protection (Waste Management) Regulation 2000*, section 38 (Consignment numbers for waste transported into Queensland).

consignment number.

‘(2) However, while the waste is being transported in Queensland, this Act applies, with necessary changes, to the person and the transportation as if—

- (a) a reference in this Act to an environmental authority includes a reference to the interstate licence and any conditions of the licence; and
- (b) the interstate licence and the consignment authorisation or document containing the consignment number are documents required to be held or kept under this Act; and
- (c) the transportation were an environmentally relevant activity to which the licence relates; and
- (d) the vehicle is a place to which the licence relates.

‘(3) In this section—

“**controlled waste**” has the meaning given under the *National Environment Protection (Movement of Controlled Waste between States and Territories) Measure*, made by the National Environment Protection Council on 26 June 1998 under the national scheme laws and notified in the Commonwealth Gazette No. G 27 on 8 July 1998 at page 2212.

“**interstate licence**” means an authority, instrument, licence or permit, however called, that is similar to an environmental authority, issued under a corresponding law.

“**interstate transportation**”, of controlled waste, means the transportation of controlled waste from—

- (a) a place in Queensland to a place in another State; or
- (b) a place in another State to a place in Queensland; or
- (c) a place in another State through Queensland to a place in another State.

**‘PART 2—OFFENCES RELATING TO
ENVIRONMENTAL REQUIREMENTS AND
DEVELOPMENT APPROVALS**

‘Division 1—Environmental authorities

‘Contravention of condition of environmental authority

‘118ZZL.(1) This section applies to a person who is the holder of, or is acting under, an environmental authority.

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

Maximum penalty—

- (a) for a licence, a level 1 approval or for a non-standard environmental authority (mining activities)—2 000 penalty units or 2 years imprisonment; or
- (b) for a level 2 approval or for a standard environmental authority (mining activities)—300 penalty units.

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

Maximum penalty—

- (a) for a licence, a level 1 approval or for a non-standard environmental authority (mining activities)—1 665 penalty units; or
- (b) for a level 2 approval or for a standard environmental authority (mining activities)—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).

‘Environmental authority holder responsible for ensuring conditions complied with

‘118ZZM.(1) The holder of an environmental authority must ensure

everyone acting under the authority complies with the conditions of the authority.

‘(2) If another person acting under the authority commits an offence against section 118ZZL, the holder also commits an offence, namely, the offence of failing to ensure the other person complied with the conditions.

Maximum penalty—the penalty under section 118ZZL(2) or (3) for the contravention of the conditions.

‘(3) Evidence that the other person has been convicted of an offence against section 118ZZL while acting under the authority is evidence that the holder committed the offence of failing to ensure the other person complies with the conditions.

‘(4) However, it is a defence for the holder to prove—

- (a) the holder issued appropriate instructions and used all reasonable precautions to ensure compliance with the conditions; and
- (b) the offence was committed without the holder’s knowledge; and
- (c) the holder could not by the exercise of reasonable diligence have stopped the commission of the offence.

‘Division 2—Environmental management programs

‘Contravention of program

‘118ZZN.(1) The holder of an approval of an environmental management program, or a person acting under an environmental management program, must not wilfully contravene the program.

Maximum penalty—1 665 penalty units or 2 years imprisonment.

‘(2) The holder of an approval of an environmental management program, or a person acting under an environmental management program, must not contravene the program.

Maximum penalty—835 penalty units.

‘(3) In a proceeding for an offence against subsection (1), 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 (2), the court may find the defendant guilty of the offence against subsection (2).

‘Approval holder responsible for ensuring program complied with

‘118ZZO.(1) The holder of an approval of an environmental management program must ensure everyone acting under the program complies with the program.

‘(2) If another person acting under the program commits an offence against section 118ZZN, the holder also commits an offence, namely, the offence of failing to ensure the other person complies with the program.

Maximum penalty—the penalty under section 118ZZN(1) or (2) for the contravention of the program.

‘(3) Evidence that the other person has been convicted of an offence against section 118ZZN while acting under the program is evidence that the holder committed the offence of failing to ensure the other person complied with the program.

‘(4) However, it is a defence for the holder to prove—

- (a) the holder issued appropriate instructions and used all reasonable precautions to ensure compliance with the program; and
- (b) the offence was committed without the holder’s knowledge; and
- (c) the holder could not by the exercise of reasonable diligence have stopped the commission of the offence.

‘Division 3—Site management plans

‘Contravention of plan

‘118ZZP.(1) A person must not wilfully contravene a site management plan.

Maximum penalty—1 665 penalty units or 2 years imprisonment.

‘(2) A person must not contravene a site management plan.

Maximum penalty—835 penalty units.

‘(3) In a proceeding for an offence against subsection (1), 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 (2), the court may find the defendant guilty of the offence against subsection (2).

‘Division 4—Development approvals

‘Offence to contravene development condition

‘**118ZZQ.(1)** A person must not wilfully contravene a development condition of a development approval.

Maximum penalty—2 000 penalty units or 2 years imprisonment.

‘(2) A person must not contravene a development condition of a development approval.

Maximum penalty—1 665 penalty units.

‘(3) In a proceeding for an offence against subsection (1), 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 (2), the court may find the defendant guilty of the offence against subsection (2).

‘PART 3—OFFENCES RELATING TO ENVIRONMENTAL HARM’.

Amendment of s 119 (Unlawful environmental harm)

27. Section 119(2)(b)—

omit, insert—

‘(b) the defendant complied with the general environmental duty.

‘(3) The defendant is taken to have complied with the duty if the defendant proves—

(a) an approved code of practice or a code of environmental

- compliance applies to the causing of the environmental harm; and
(b) to the extent it is relevant, the defendant complied with the code.’

Insertion of new ch 3A, pt 3 hdg

28. After section 123—

insert—

‘PART 4—OTHER OFFENCES’.**Amendment of s 135 (Entry of place)**

29.(1) Section 135, heading—

omit, insert—

‘Entry of place—general’.

(2) Section 135(1)(c), words before subparagraph (ii)—

omit, insert—

‘(c) it is a place to which an environmental authority or a development approval subject to a development condition relates and the entry is made when—

- (i) the environmentally relevant activity to which the authority or approval relates is being carried out; or’.

(3) Section 135(1)—

insert—

‘(g) the authorised person may enter the place under section 136, 136A or 136B.’.

(4) Section 135—

insert—

‘**(1A)** For the purpose of asking the occupier of a place for consent to enter, an authorised person may, without the occupier’s consent or a warrant—

- (a) enter land around premises at the place to an extent that is

reasonable to contact the occupier; or

- (b) enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.¹⁰⁹.

(5) Section 135(3)—

omit.

Amendment of s 136A (Entry of land—preliminary investigation)

30. Section 136A(2), from ‘an investigation’—

omit, insert—

‘a preliminary investigation.’.

Insertion of new s 136B

31. After section 136A—

insert—

‘Entry of land for access

‘136B.(1) This section applies if—

- (a) an authorised person may enter land (the “**primary land**”) under section 135 or 136A; and
- (b) it is necessary or desirable to cross other land (the “**access land**”) to enter the primary land.

‘(2) The authorised person may enter the access land and take into or over it anything the person reasonably requires for exercising a power under section 140 in relation to the primary land—

- (a) if the person obtains the consent of the occupier of the access land; or
- (b) if the person gives at least 7 days written notice to the occupier before the entry; or

¹⁰⁹ See also section 176 (Consent to entry).

- (c) without the consent of, or notice to, the occupier, if the person—
- (i) believes on reasonable grounds there is an imminent risk of environmental harm being caused to or from the primary land; and
 - (ii) has told, or has made a reasonable attempt to tell, the occupier that the person is permitted to enter the access land under this paragraph.

‘(3) A notice under subsection (2)(b) must—

- (a) describe the primary land and the access land; and
- (b) state—
 - (i) that the authorised person intends to enter the access land for entry to the primary land; and
 - (ii) the day and time the access land will be entered; and
 - (iii) that an owner or occupier of the access land may claim compensation under section 178 for loss or damage caused by the entry to the access land.

‘(4) In exercising a power under this section, the authorised person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

‘(5) Nothing in this section authorises the authorised person to enter a structure, or part of a structure, used for residential purposes.

‘(6) This section does not limit section 135 or 136A.’.

Amendment of s 138A (Order to enter land to conduct investigation or conduct work)

32.(1) Section 138A(1), ‘contaminated’, first mention—

omit.

(2) Section 138A(1)(a)—

omit, insert—

- ‘(a) to carry out work on the land to—

- (i) prevent or minimise environmental harm or rehabilitate or restore the land because of an activity carried out under an environmental authority, environmental management program or site management plan; or
 - (ii) remediate land managed under a site management plan; or
 - (iii) secure compliance with an environmental authority, environmental management program, site management plan or any conditions of the authority program or plan; or
- (ab) if the land is contaminated land—to conduct a site investigation of the land; or’.

(3) Section 138A(2)—

insert—

- ‘(c) if the application is for an order to carry out work mentioned in subsection (1)(a)—
- (i) the environmental authority holder; or
 - (ii) environmental management program approval holder.’.

(4) Section 138A(5), after ‘satisfied—’—

insert—

- ‘(aa) for an order to carry out work mentioned in subsection (1)(a), the entry sought is reasonable and necessary to carry out the work; or’.

Amendment of s 180 (Evidentiary provisions)

33.(1) Section 180(5)(a), ‘licence or other authority’—

omit, insert—

‘report, environmental requirement or other authority or permit issued or given under this Act’.

(2) Section 180(5)(b), ‘a licence’—

omit, insert—

‘an environmental requirement’.

(3) Section 180(5)(c), ‘a licence or other authority’—

omit, insert—

‘an environmental requirement or other authority or permit issued or given under this Act’.

(4) Section 180(5)(d), ‘a licence or level 1 approval’—

omit, insert—

‘an environmental authority’.

Amendment of s 181 (Special evidentiary provision—environmental nuisance)

34. Section 181, after ‘fumes’—

insert—

‘, light’.

Amendment of s 188 (Notice of defence)

35. Section 188, ‘the defence mentioned in section 119(2)’—

omit, insert—

‘a defence under chapter 3A’.

Replacement of s 198 (Delegation by chief executive)

36. Section 198—

omit, insert—

‘Delegation by chief executive

‘**198.(1)** The chief executive may delegate the executive’s powers under this Act to—

- (a) an appropriately qualified—
 - (i) authorised person; or
 - (ii) public service officer; or

(b) a local government.

‘(2) A delegation of a power to a local government may permit the subdelegation of the power to an appropriately qualified employee of the local government.

‘Delegation by other administering executives

‘**198A.(1)** A local government’s chief executive officer may delegate the officer’s powers under this Act to an appropriately qualified employee of the local government.

‘(2) A delegation of a power to an employee of a local government may permit the subdelegation of the power to another appropriately qualified employee of the local government.’.

Amendment of s 200 (Dissatisfied person)

37.(1) Section 200(1), before paragraph (a)—

insert—

‘(aa) if the decision is about an EIS or the EIS process for an EIS—the relevant proponent under chapter 2A, part 1, for the project to which the EIS relates; or’.

(2) Section 200(1)(a)(ii)—

omit, insert—

‘(ii) the holder of the environmental authority; or’.

(3) Section 200(1)—

insert—

(ab) if the decision is about a transfer application under chapter 2C, part 9—the applicant; or

(ac) if the decision is to give an audit notice, conduct an environmental audit or prepare an environmental audit report under chapter 2C, part 11—the relevant environmental authority holder; or’.

(4) Section 200(1)(g) and (h)—

omit, insert—

- ‘(g) 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 118L or 118S; and
 - (iii) if another person conducts or commissions the site investigation—the other person; or
- (h) 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 118Z; and
 - (iii) if another person conducts or commissions work to remediate the land—the other person; or
- (ha) if the decision is about a site management plan for contaminated land—
 - (i) the recipient for the notice to prepare or commission the site management plan, other than for a decision under section 118ZU; and
 - (ii) the land’s owner, other than for a decision under section 118ZO; and
 - (iii) if another person prepares or commissions the plan—the other person, other than for a decision under section 118ZU; or’.

(5) Section 200, after subsection (1)(l)—

omit, insert—

‘(m) if the decision is about an application for a disclosure exemption—the applicant for the exemption.

‘(2) A submitter for an application is also a **“dissatisfied person”** if the decision is about—

- (a) a licence application under chapter 2B, part 3, division 2,

subdivision 1; or

- (b) an amendment application under chapter 2B, part 5 for which a public notice requirement has been made; or
- (c) the submission of an environmental management program to which section 85 applies.¹¹⁰.

Amendment of s 203 (Stay of operation of original decisions)

38.(1) Section 203(1), ‘to the Court’—

omit, insert—

‘to—

- (a) for an original decision mentioned in schedule 1, part 1—the tribunal; or
- (b) for an original decision mentioned in schedule 1, part 2—the Court.’.

(2) Section 203(2) to (4), ‘Court’—

omit, insert—

‘tribunal or the Court’.

¹¹⁰ Sections 118L (Waiver of requirement to conduct or commission site investigation), 118S (Administering authority may require another report or additional information), 118Z (Waiver of requirement to remediate land), 118ZU (Approval of draft site management plan), 118ZO (Waver of requirement to prepare or commission site management plan) and 85 (Public notice of submission for approval of certain draft programs)

Chapter 2A, part 1 (EIS process)

Chapter 2C, parts 9 (Transfer of authorities) and 11 (Environmental audits for mining activities)

Chapter 2B, part 3, division 2, subdivision 1 (General provisions for obtaining licence)

Chapter 2B, part 5 (Amending environmental authorities by application)

Replacement of ch 6, pt 3, div 3, hdg

39. Chapter 6, part 3, division 3, heading—
omit, insert—

Division 3—Appeals

Subdivision 1—Appeals to tribunal

‘Review decisions subject to tribunal appeal

‘203A. This subdivision applies if the administering authority makes an original decision mentioned in schedule 1, part 1.

‘Right of appeal

‘203B. A dissatisfied person who is dissatisfied with the decision may appeal against the decision to the tribunal.

‘Appeal period

‘203C.(1) The appeal must be started within 30 days after the appellant receives notice of the decision.¹¹¹

‘(2) However, the tribunal may at any time extend the time for starting the appeal.

‘Tribunal mediation

‘203D.(1) Any party to the appeal may, at any time before the appeal is decided, ask the tribunal to conduct or provide mediation for the appeal.

¹¹¹ For how to start the appeal, see the *Land and Resources Tribunal Rules 2000*, section 3 (Starting proceeding before tribunal).

‘(2) The mediation must be conducted by the tribunal or a mediator chosen by the tribunal.¹¹²

‘Nature of appeal

‘203E. The appeal is by way of rehearing, unaffected by the review decision.

‘Tribunal’s powers for appeal

‘203F. In deciding the appeal, the tribunal has the same powers as the administering authority.

‘Decision for appeals against refusals under s 34GW

‘203G.(1) This section applies if the decision appealed against is a decision under section 34GW to refuse to allow a non-standard application for environmental authority (mining lease) to proceed.¹¹³

‘(2) In deciding the appeal the tribunal must confirm the decision or allow the appeal.

‘(3) If the appeal is allowed—

- (a) the relevant period for the administering authority to make the decision is taken to have been extended to when the decision on the appeal is made; and
- (b) the authority is taken, at the end of the period, not to have made the decision.

‘Decision for other appeals

‘203H.(1) This section applies if the decision appealed against is not a decision mentioned in section 203G(1).

¹¹² For the conduct of the mediation, see the *Land and Resources Tribunal Act 1999*, sections 72 to 75.

¹¹³ Section 34GW (Administering authority may refuse application)

‘(2) In deciding the appeal, the tribunal may—

- (a) confirm the decision; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the matter to the administering authority with directions the tribunal considers appropriate.

‘(3) In setting aside or substituting the decision, the tribunal has the same powers as the authority.

‘(4) However, this part does not apply to a power exercised under subsection (3).

‘(5) If the tribunal substitutes another decision, the substituted decision is taken for this Act, other than section 219AU¹¹⁴ and this subdivision, to be the authority’s decision.

‘Subdivision 2—Appeals to Court’.

Amendment of s 204 (Who may appeal)

40. Section 204(1), after ‘review decision’—

insert—

‘, other than a review decision to which subdivision 1 applies,’.

Replacement of s 213 (Registers)

41. Section 213—

omit, insert—

‘Required registers

‘**213.(1)** The administering authority must, for its administration under this Act, keep a register of the following—

- (a) in relation to chapter 2A, the following—

¹¹⁴ Section 219AU (Notice of refusal or decision to limit exemption)

- (i) submitted draft terms of reference for EISs;
- (ii) TOR notices given to the chief executive;
- (iii) written summaries of comments given to the chief executive about draft terms of reference for EISs;
- (iv) final terms of reference published by the chief executive;
- (v) submitted EISs;
- (vi) declarations of compliance under section 34AP given to the chief executive;
- (vii) EIS assessment reports;
- (viii) bilateral agreements;
- (b) development approvals for environmentally relevant activities;
- (c) environmental authorities;
- (d) in relation to chapter 2C, the following—
 - (i) assessment level decisions;
 - (ii) submitted environmental management documents;
 - (iii) EM plan assessment reports and EMOS assessment reports;
 - (iv) draft environmental authorities (mining activities);
 - (v) declarations of compliance under section 34HD given to the chief executive;
 - (vi) submitted plans of operations;
 - (vii) submitted final rehabilitation reports;
 - (viii) FRR assessment reports;
 - (ix) transfers of environmental authorities (mining activities);
 - (x) surrenders of environmental authorities (mining activities);
 - (xi) standard environmental conditions;
- (e) in relation to chapter 3, part 9B—
 - (i) an environmental management register; and
 - (ii) a contaminated land register;

- (f) environmental reports;
- (g) monitoring programs carried out under this Act or a development condition of a development approval;
- (h) the results of monitoring programs mentioned in paragraph (g);
- (i) environmental management programs;
- (j) environmental protection orders;
- (k) authorised persons;
- (l) approved codes of practice;
- (m) codes of environmental compliance;
- (n) standard environmental conditions;
- (o) 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.¹¹⁵

‘Keeping of registers

‘**213A.(1)** The register for codes of environmental compliance must include a copy of each of the codes.

‘(2) The register for standard environmental conditions must include a copy of each of the conditions and the gazette notice by which each of the conditions was approved.

‘(3) If the administering authority considers it impracticable to include a document in any other register, it may include details of the document in the register instead of the document.

‘(4) However, if the other register only includes details of a document—

- (a) the authority must keep the document open for public inspection in the way required of a register under section 214; and

¹¹⁵ Chapters 2A (Environmental impact statements) and 2C (Environmental authorities for mining activities)
Sections 34AP (Declaration of compliance), 34HD (Declaration of compliance)
Chapter 3, part 9B (Contaminated land)

(b) section 214 applies to the document as if it were included in a register.

‘(5) 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.

‘(6) Subject to subsections (1) to (5), the authority may keep a register in the way it considers appropriate, including, for example, on the authority’s web site on the internet.’.

Amendment of s 214 (Inspection of register)

42.(1) Section 214(1), after ‘section 213(1)’—

insert—

‘, other than the environmental management register or contaminated land register’.

(2) Section 214(1)(a), after ‘business days’—

omit, insert—

‘at the agency’s relevant office for the administration of this Act; and’.

(3) Section 214(3), ‘the registers mentioned in section 213(1A)’—

omit, insert—

‘the environmental management register or contaminated land register’.

Insertion of new s 214A

43. After section 214—

insert—

‘Appropriate fee for copies

‘**214A.(1)** This section applies if, under this Act, the administering authority or other entity must, on payment of the appropriate fee to the entity, give a person a copy of a document, or a part of a document.

‘(2) The fee for the copy of the document or part of it is the amount that is the lesser of the following—

- (a) the amount the authority decides is reasonable;
- (b) the amount that is no more than the reasonable cost incurred by the authority or other entity in making the copy and giving it to the person.

‘(3) Despite subsection (2) or any other provision of this Act, the authority or other entity may give the document without the payment.

‘(4) In this section—

“**document**” does not include the following registers or an extract from the registers—

- (a) the environmental management register;
- (b) the contaminated land register.’.

Amendment of s 215 (Approved forms)

44. Section 215—

insert—

‘(2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.’.

Insertion of new ch 7, pt 1 hdg

45. Chapter 7, before section 219—

insert—

**‘PART 1—APPROVAL OF CODES OF PRACTICE
AND STANDARD ENVIRONMENTAL CONDITIONS’.**

Insertion of new ss 219AA–219BE

46. After section 219—

insert—

‘Minister may approve standard environmental conditions

‘219AA.(1) This section applies if a code of environmental compliance contains standard environmental conditions for carrying out an environmentally relevant activity.

‘(2) The Minister may, by gazette notice, approve the conditions.

‘(3) The Minister must keep copies of approved standard environmental conditions open for public inspection during office hours on business days at—

- (a) the department’s head office; and
- (b) the other places the Minister considers appropriate.

‘Effect of changes to standard environmental conditions

‘219AB.(1) This section applies if—

- (a) standard environmental conditions apply for an environmental authority (the “**existing conditions**”); and
- (b) after the grant of the authority, the standard environmental conditions are changed.

‘(2) The existing conditions continue to apply to the authority, despite the change.

‘(3) Subsection (2) is subject to any amendment of the authority.

**‘PART 2—GENERAL PROVISIONS ABOUT
APPLICATIONS AND SUBMISSIONS****‘Division 1—Preliminary****‘Definitions for pt 2**

‘219AC. In this part—

“applicant”, for an EMP submission, means the person or public authority that made the submission.

“deciding”, for an application or submission, includes the following—

- (a) a step required for considering or deciding the application or submission;
- (b) imposing a condition;
- (c) including a condition in a draft environmental authority;
- (d) for an application under chapter 2C¹¹⁶ for which an assessment level decision is required—making the assessment level decision.

“EMP submission” means a submission for approval of, or an approval of an amendment to, an environmental management program.

‘Division 2—General provisions

‘What is the “application date” for application or EMP submission

‘219AD.(1) This section applies if a person—

- (a) applies to amend or transfer an environmental authority, other than an environmental authority (mining activities); or
- (b) makes an EMP submission.

‘(2) The **“application date”** for the application or submission is the day that is 14 days after the day it is made to the administering authority.

‘(3) However, if, within 10 days after that day, the authority requires additional information relating to the application or submission, the **“application date”** is the day the authority states as the application date in a written notice given by it to the person.

‘(4) The application date stated in the notice must not be a day earlier than 2 days after the person’s receipt of the notice.

¹¹⁶ Chapter 2C (Environmental authorities for mining activities)

‘Electronic applications and submissions

‘219AE.(1) This section applies if—

- (a) this Act requires an application or submission to be made in an approved form; and
- (b) the form provides that the application or submission may be made at a stated e-mail address.

‘(2) The application or submission may be made by electronically transmitting to the e-mail address the information required by the approved form in a format substantially similar to the approved form.

‘Electronic notices about applications and submissions

‘219AF.(1) This section applies if an application or submission has been made in an approved form, whether or not it has been made under section 219AE.

‘(2) A notice from the applicant to the administering authority about the application or submission may be given by electronically transmitting it to any e-mail address for service for the authority stated in the approved form.

‘(3) A notice from the authority or anyone else to the applicant about the application or submission may be given by electronically transmitting it to any e-mail address for service for the applicant stated in the application.

‘Extension of decision period

‘219AG.(1) This section applies if the administering authority is deciding, or is required to decide, an application for, an environmental authority or an EMP submission.

‘(2) The authority may extend the required period to make the decision if, before the extension starts, it gives the applicant and any submitters for the application an information notice about the decision to extend.

‘Administering authority may seek advice, comment or information

‘219AH.(1) If the administering authority is deciding, or is required to decide, an application or EMP submission, it may require—

- (a) the applicant to give the authority stated additional information about the application or EMP submission; or
- (b) any information given in the application or EMP submission, or any additional information required under paragraph (a), to be verified by statutory declaration.

‘(2) The authority must, within 10 business days after deciding to make a requirement under subsection (1), give the applicant an information notice about the decision.

‘(3) The authority may seek relevant advice, comment or information from another person and the request may be by public notice.

‘(4) Also, if the application is for, or relates to, an environmental authority (mining activities), the administering authority may give anyone a document or information about the application that is not subject to a disclosure exemption.

‘(5) Asking for and receiving, or giving, a document or advice, comment or information under this section does not—

- (a) replace any public notice or other step required to decide the application or EMP submission; or
- (b) extend or reduce the period required for deciding the application or EMP submission or taking a step in deciding the application or submission.

‘(6) However, subsection (5)(b) does not limit section 219AG.

‘Decision criteria are not exhaustive

‘219AI.(1) This section applies if—

- (a) an entity is deciding, or is required to decide, an application or EMP submission under this Act; and
- (b) a provision of this Act 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.

‘Publication of decision or document by administering authority

‘219AJ.(1) This section applies if a provision of this Act requires the administering authority to publish a decision or document.

‘(2) The publication may be made by placing a link to a record or register of the decision or to the document on the authority’s web site on the internet.¹¹⁷

‘(3) The decision or document may also be published in any other way decided by the chief executive.

‘(4) In this section—

“publish” includes make available for public inspection, including, for example, insert or record particulars of in an appropriate register.

‘Division 3—Investigating suitability**‘Investigation of applicant suitability or disqualifying events**

‘219AK.(1) The administering authority may investigate a person to help it decide whether—

- (a) the person is a suitable person to hold, or continue to hold, an environmental authority; or
- (b) a disqualifying event has happened in relation to the person.

‘(2) The administering authority 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, give it a written report about any 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

¹¹⁷ At the commencement of this section, the administering authority’s web site on the internet could be located at <www.env.qld.gov.au>.

officials administering police services in other Australian jurisdictions.

‘(4) However, subsection (3) is subject to the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

‘Use of information in suitability report

‘**219AL.(1)** This section applies if the administering authority is considering information contained in a report about a person obtained under section 219AK (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 administering 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.

‘Notice of use of information in suitability report

‘**219AM.** Before using information contained in a suitability report to assess a matter mentioned in section 219AK(1), the administering authority 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 about the information.

‘Confidentiality of suitability reports

‘**219AN.(1)** This section applies to a person who—

- (a) is, or has been a public service employee or an employee of a local government; 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 employee of the authority for making the decision for which the report was obtained ; or
- (c) to the tribunal or the Court; or
- (d) to a person carrying out functions for the tribunal, Court or administering authority; or
- (e) to a person employed or engaged to give advice to the tribunal or administering authority 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.

‘**Destruction of suitability reports**

‘**219AO.(1)** This section applies if the administering authority has obtained a suitability report and it has made the decision for which the report was obtained.

‘(2) The authority 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 3—EXEMPTION FROM DISCLOSURE

‘Division 1—Obtaining disclosure exemption

‘Who may apply

‘219AP. A person may apply to the administering authority for an exemption (a **“disclosure exemption”**) from disclosure for stated information contained in a document submitted, or proposed to be submitted, by the person under this Act.

‘Requirements for application

‘219AQ. A disclosure exemption application must—

- (a) be in the approved form; and
- (b) state that the disclosure of the information the subject of the application is, in the applicant’s opinion, likely to disadvantage the applicant’s interests; and
- (c) identify the nature and extent of the disadvantage; and
- (d) state the nature of the disadvantage; and
- (e) state that the information is—
 - (i) not required to be disclosed under another law of the State; and
 - (ii) not publicly available; and
- (f) be supported by enough information to allow the authority to decide the application.

‘Deciding application

‘219AR. The administering authority must, within 20 business days after it receives the application, consider the application and decide either to grant or refuse it.

‘Criteria for decision

‘219AS. The administering authority may grant a disclosure exemption application only if it is satisfied—

- (a) the information sought to be exempted is—
 - (i) not required to be disclosed under another law of the State; and
 - (ii) not publicly available; and
- (b) disclosure of the information is likely to disadvantage the applicant’s interests; and
- (c) the disadvantage outweighs the public interest in the information being disclosed.

‘Exemption may be limited

‘219AT. The administering authority may grant a disclosure exemption application—

- (a) for the whole or part of the information the subject of the application; and
- (b) for only a stated period.

‘Notice of refusal or decision to limit exemption

‘219AU.(1) This section applies if the administering authority decides to—

- (a) refuse a disclosure exemption application; or
- (b) allow a disclosure exemption application, but only for part of the information the subject of the application; or

(c) grants the application for only a stated period.

(2) The authority must, within 10 business days after the decision is made, give the applicant an information notice about the decision.

Division 2—Effects of disclosure exemption

Subdivision 1—Preliminary

Application of div 2

219AV. This division applies if a disclosure exemption application has been granted and any period for which the application was granted has not ended.

Meaning of “exempted material” for div 2

219AW.(1) In this division, “**exempted material**” means—

- (a) information the subject of a disclosure exemption; or
- (b) a part of a document submitted, or proposed to be submitted, under this Act that contains the information.

(2) However, material that is exempted material under subsection (1) ceases to be exempted material if it is publicly disclosed by anyone who obtained the disclosure exemption.

Subdivision 2—Effects

Effect on operation of disclosure requirements under Act

219AX. If a provision of this Act requires exempted material to be disclosed, the provision only has effect to the extent it requires the disclosure to be made—

- (a) to a person with the applicant’s written consent; or
- (b) to the administering authority; or

- (c) to the tribunal or the Court; or
- (d) to a person carrying out functions for the tribunal, the Court or the authority; or
- (e) to a person employed or engaged to give advice to the tribunal, Court or the authority in the carrying out of its functions; or
- (f) under a direction or order made in a proceeding.

‘Effect on administering authority

‘219AY. The administering authority must not disclose exempted material to anyone other than the applicant for the disclosure exemption, unless the disclosure is—

- (a) made under section 219AX; or
- (b) expressly permitted or required under another Act.

‘Effect on officials

‘219AZ.(1) An official must not disclose exempted material acquired by the official in the official’s capacity as an official to anyone else, unless the disclosure is—

- (a) made under section 219AX; or
- (b) expressly permitted or required under another Act.

Maximum penalty—100 penalty units.

‘(2) In this section—

“official” means—

- (a) a person who is, or has been, a public service employee; or
- (b) another person performing functions under or in relation to the administration of this Act.

‘PART 4—ENTRY TO LAND TO COMPLY WITH ENVIRONMENTAL REQUIREMENT

‘Entry orders

‘219BA.(1) This section applies if an environmental requirement requires a person to conduct work in relation to land to which the requirement relates (the **“primary land”**).

‘(2) The person may apply to a Magistrates Court for an order (an **“entry order”**) to enter—

- (a) the primary land; or
- (b) other land (**“access land”**) that is necessary or desirable to cross to enter the primary land.

‘(3) The application must state fully the grounds on which the entry order is sought.

‘(4) The applicant must serve a copy of the application on—

- (a) the owner of the primary land and any access land; and
- (b) if the owner of the primary land or any access land is not the occupier of that land—the occupier.

‘(5) The court may make an entry order only if it is satisfied it is necessary and reasonable to comply with an environmental requirement.

‘(6) However, the court must not make an entry order that authorises entry to a structure, or a part of a structure, used for residential purposes.

‘(7) An entry order must state the following—

- (a) that the applicant may, with necessary and reasonable help—
 - (i) enter the primary land to conduct work to comply with a stated environmental requirement; and
 - (ii) cross any access land to enter the primary land under subparagraph (i);
- (b) the hours of the day when an entry under paragraph (a) may be made;

- (c) the nature of the work that may be conducted on the primary land;
- (d) the day when the order ends.

‘(8) An entry order may be made with other conditions.

‘(9) Without limiting subsection (8), a condition may—

- (a) require security to be given for the benefit of anyone who might suffer a cost, damage or loss because of the exercise or purported exercise of a power under an entry order; and
- (b) provide for how and when the security may be released or used.

‘Procedure for entry under entry order

‘219BB.(1) This section applies if—

- (a) a person (the “**entering person**”) is intending to enter land under an entry order; and
- (b) an occupier is present on the land.

‘(2) Before entering the land, the entering person must do or make a reasonable attempt to—

- (a) identify himself or herself to the occupier; and
- (b) give the occupier a copy of the entry order; and
- (c) tell the occupier that the entering person is permitted by the entry order to enter the land.

‘Duty to avoid damage

‘219BC. In exercising a power under an entry order, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

‘Notice of damage

‘219BD.(1) If a person who enters land under an entry order damages the land or something on the land, the person must, as soon as practicable, give written notice of the damage to—

- (a) the owner of the land; and
- (b) if the owner is not the occupier of the land—the occupier; and
- (c) the administering authority.

‘(2) However, if for any reason it is not practicable to comply with subsection (1), the person must—

- (a) leave the notice at the place where the damage happened; and
- (b) ensure it is left in a conspicuous position and in a reasonably secure way.

‘(3) The notice must state—

- (a) particulars of the damage; and
- (b) that the person who suffered the damage may claim compensation under section 219BE from the person who obtained the entry order.

‘**Compensation**

‘**219BE.(1)** This section applies if a person (the “**claimant**”) suffers a cost, damage or loss because of the exercise or purported exercise of a power under an entry order.

Example of ‘loss’—

Inability or interference with the lawful enjoyment or use of the land the subject of the order.

‘(2) Compensation is payable to the claimant by the person who obtained the entry order.

‘(3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.

‘(4) A court may order the payment of the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

‘PART 5—REGULATIONS’.**Amendment of s 220 (Regulation-making power)**

47.(1) Section 220(2)(c), ‘licensees’—

omit, insert—

‘holders of environmental authorities’.

(2) Section 220(2)(g), after ‘manufacture,’—

insert—

‘generation,’.

(3) Section 220(2)(j)—

omit, insert—

‘(j) environmental impact assessments, reports, statements or studies;

(ja) requirements for EISs or the EIS process to allow—

(i) the process to be accredited under the Commonwealth Environment Act; or

(ii) the making of a bilateral agreement; or

(iii) the State to meet its obligations under a bilateral agreement;’.

(4) Section 220(2)—

insert—

‘(m)the approval or making of codes of environmental compliance;

(n) the appointment and qualifications of environmental auditors;

(o) the carrying out of environmental audits;

(p) requirements for environmental audit reports;

(q) audit statements;

(r) financial assurance.’.

Replacement of ch 8, hdg (Chapter 8—Repeals, savings, transitional, validations and related provisions)

48. Chapter 8, heading—

omit, insert—

**‘CHAPTER 8—SAVINGS, TRANSITIONAL AND
RELATED PROVISIONS’.**

Omission of ch 8, pt 1 (Repeals)

49. Chapter 8, part 1—

omit.

Replacement of ch 8, pt 2, hdg (Savings and transitional)

50. Chapter 8, part 2, heading—

omit, insert—

**‘PART 1—PROVISIONS FOR ENVIRONMENTAL
PROTECTION AND OTHER LEGISLATION
AMENDMENT ACT 1997’.**

Omission of ss 235 and 236

51. Sections 235 and 236—

omit.

Insertion of new ch 8, pt 2

52. After section 238—

insert—

**‘PART 2—PROVISIONS FOR ENVIRONMENTAL
PROTECTION AND OTHER LEGISLATION
AMENDMENT ACT 2000**

‘Division 1—Preliminary

‘Definitions for pt 2

‘239. In this part—

“amending Act” means the *Environmental Protection and Other Legislation Amendment Act 2000*.

“commencement day” means the day this section commences.

“condition”, of a mining tenement, for division 2, see section 240.

“conversion application” see section 258(2).

“environmental document requirement” means a requirement under section 263.

“existing Act” means this Act as it was in force immediately before chapter 2C commenced.

“existing mining activity”, under a mining tenement, means an activity carried out under the tenement on, or at any time before, the commencement day.

“reminder notice” see section 251(2).

“transitional authority”, for division 4, see section 247.

“transitional period” means the period from the commencement day to 5 years after the commencement day.

‘Division 2—Existing environmental authorities and mining activities

‘Subdivision 1—Preliminary

‘What is a “condition” of a mining tenement for div 2

‘240.(1) For this division, a **“condition”** of a mining tenement means any of the following—

- (a) a condition of the mining tenement determined, imposed or prescribed under the Mineral Resources Act;
- (b) a condition of, or stated in, the mining tenement;
- (c) a commitment, obligation, requirement or undertaking under, or stated in, the most recent version of a planning document for the mining tenement.

‘(2) For subsection (1)(c), the most recent version of a planning document is taken to be the original planning document adopted by the MRA department, as amended from time to time by any amendment or purported amendment of the document adopted by that department.

‘(3) For subsection (2), a document or amendment is taken to have been adopted by the MRA department if—

- (a) it has been accepted or approved under the Mineral Resources Act by the MRA Minister, the mining registrar, the MRA department or an officer of that department; or
- (b) the MRA department, or an officer of that department, has accepted or approved, or purported to accept or approve, the document or amendment, whether or not the acceptance or approval was required by, or could lawfully have been made under, the Mineral Resources Act.

‘(4) In this section—

“Mineral Resources Act” means that Act as in force from time to time before the commencement day.

“MRA department” means the department through which the Mineral Resources Act is administered.

“planning document”, for a mining tenement, means—

- (a) if the mining tenement is a mining claim—the outline under the Mineral Resources Act, section 61(1)(j)(iv) for the mining claim; or
- (b) if the mining tenement is an exploration permit—the statement under the Mineral Resources Act, section 133(g)(i) specifying a description of the program of work for the permit; or
- (c) if the mining tenement is a mineral development licence—the statement under the Mineral Resources Act, section 183(m) containing proposals for the licence mentioned in that paragraph; or
- (d) if the mining tenement is a mining lease—
 - (i) any EMOS for the lease; and
 - (ii) either—
 - (A) any plan of operations for the lease under the Mineral Resources Act, part 7; or
 - (B) if there is no plan of operations in force for the lease immediately before the commencement day—the most recent expired plan of operations for the lease under the Mineral Resources Act, part 7.¹¹⁸

‘Subdivision 2—Existing authorities for mining activities

‘Existing authority becomes an environmental authority (mining activities)

‘241.(1) This section applies if, immediately before the commencement day—

- (a) an environmental authority is in force; and

¹¹⁸ Mineral Resources Act, sections 61 (Application for grant of mining claim), 133 (Application for exploration permit), 183 (Application for mineral development licence) and part 7 (Mining leases)

(b) the authority was for, or included, a mining activity.

‘(2) On the commencement day, the authority, is taken to be an environmental authority (mining activities).

‘(3) Chapter 2C¹¹⁹ applies to the authority, subject to division 4.

‘Conditions of environmental authority

‘242.(1) The conditions of an environmental authority that, under section 241, is taken to be an environmental authority (mining activities) are as follows—

- (a) the conditions of the authority immediately before the commencement day;
- (b) each condition of a relevant mining tenement that, had an environmental authority (mining activities) been granted for the relevant mining activity on the commencement day, would reasonably be expected to be a condition of the environmental authority (mining activities);
- (c) any financial assurance condition imposed on the authority under section 253;¹²⁰
- (d) another condition prescribed under a regulation.

‘(2) If under subsection (1)(b) a condition of a relevant mining tenement becomes a condition of the authority, it ceases to have effect as a condition of the tenement.

‘(3) Subsection (2) applies despite the Mineral Resources Act.

¹¹⁹ Chapter 2C (Environmental authorities for mining activities)

¹²⁰ Section 253 (Financial assurance for transitional authority)

***‘Subdivision 3—Existing mining activities without
environmental authority***

‘New environmental authority (mining activities) for existing activities

‘243.(1) This section applies if, immediately before the commencement day—

- (a) a person holds a mining tenement; and
- (b) there is no environmental authority in force for any mining activity authorised under the mining tenement.

‘(2) On the commencement day, the person, is taken to hold a single environmental authority (mining activities) for all existing mining activities under the mining tenement that, immediately before the commencement day, were level 2 environmentally relevant activities.

‘(3) However, if the mining tenement was part of a mining project, the person is taken to hold a single environmental authority (mining activities) for all existing mining activities under the mining tenements that form the project.

‘(4) Chapter 2C applies to the authority, subject to division 4.¹²¹

‘Conditions of environmental authority

‘244.(1) The conditions of an environmental authority (mining activities) under section 243 are—

- (a) each condition of a relevant mining tenement that would reasonably be expected to be a condition of the authority; and
- (b) any financial assurance condition imposed on the authority under section 253;¹²²
- (c) another condition prescribed under a regulation.

‘(2) If, under subsection (1)(a), a condition of a relevant mining tenement

¹²¹ Chapter 2C (Environmental authorities for mining activities)
Division 4 (Transitional authorities for mining activities)

¹²² Section 253 (Financial assurance for transitional authority)

becomes a condition of the authority, it ceases to have effect as a condition of the tenement.

‘(3) Subsection (2) applies despite the Mineral Resources Act.

‘Division 3—Unfinished applications

‘Procedure if certificate of application issued and conditions decided

‘245.(1) The existing Act applies to an environmental authority application if, before the commencement day—

- (a) a person applied for a mining tenement and an environmental authority in relation to the tenement; and
- (b) a certificate of application for the mining tenement application was endorsed by the mining registrar; and
- (c) the administering authority has decided conditions for the environmental authority; and
- (d) the mining tenement has not been granted and the environmental authority has not been issued.

‘(2) An environmental authority issued by applying the existing Act becomes an environmental authority (mining activities) immediately after it is issued.

‘(3) However, despite any provision of the existing Act, the conditions of the environmental authority must only be—

- (a) the decided conditions; and
- (b) any condition that—
 - (i) under the Mineral Resources Act, would have been imposed on a relevant mining tenement had the amending Act not been enacted; and
 - (ii) had an environmental authority (mining activities) been granted for each relevant mining activity on the commencement day, would reasonably be expected to be a condition of the environmental authority (mining activities);

and

(c) any financial assurance condition imposed on the authority under section 253.

‘(4) Chapter 2C applies to the authority, subject to division 4.

‘(5) In this section—

“**certificate of application**” means a certificate of application under the Mineral Resources Act, section 64 or 252, as in force immediately before the commencement day.¹²³

‘**Procedure for other unfinished applications**

‘**246.(1)** This section applies if—

- (a) before the commencement day, a person applied for a mining tenement; and
- (b) the mining tenement has not been granted; and
- (c) an environmental authority application in relation to the mining tenement is not an application to which, under section 245(1), the existing Act applies.

‘(2) The environmental authority application is taken to have been made on the commencement day.

‘(3) Chapter 2C applies to the application.

‘(4) However, the following do not apply—

- (a) a time requirement under that chapter for the administering authority to—
 - (i) make an assessment level decision; or
 - (ii) take a step for deciding the application; or
 - (iii) decide the application or make a decision about the

¹²³ Sections 34CK (Conditions that may be imposed) and 253 (Financial assurance for transitional authority)
Chapter 2C (Environmental authorities for mining activities)
Mineral Resources Act, sections 64 and 252 (Certificate of application etc.)

application;

- (b) sections 34FK and 34FX.¹²⁴

‘Division 4—Transitional authorities for mining activities

‘Subdivision 1—Preliminary

‘Meaning of “transitional authority” for div 4

‘247.(1) For this division, a **“transitional authority”** means—

- (a) an existing environmental authority that, under section 241, is taken to be an environmental authority (mining activities); or
- (b) a new environmental authority (mining activities) that, under section 243, is taken to be held by a person; or
- (c) an environmental authority (mining activities) if, under section 245(1), the existing Act applied to the application for the authority.

‘(2) However, a transitional authority under subsection (1) ceases to be a transitional authority if it is—

- (a) amended under subdivision 3; or
- (b) transferred.¹²⁵

‘(3) Subsection (2) does not affect the authority continuing to be an environmental authority (mining activities) after it ceases to be a transitional authority.

¹²⁴ Sections 34FK (Consequence of failure to decide) and 34FX (Consequence of failure to decide)

¹²⁵ See also section 258(9) (Conversion to standard authority by application).

‘Subdivision 2—Special provisions for transitional authorities

‘Transitional authority taken to be non-standard

‘248. A transitional authority is taken to be a non-standard environmental authority (mining activities).

‘Limited application of s 118ZZI for transitional authority

‘249.(1) Section 118ZZI does not apply to a person carrying out an existing mining activity under a mining tenement that is not authorised under a transitional authority or environmental authority (mining activities) issued under section 245 if the holder of a transitional authority has—

- (a) made a relevant amendment application and the application has not been decided; or
- (b) given the administering authority notice of the activity (“**activity notice**”) and no more than 30 days have passed since the notice was given.

‘(2) However, an activity notice can not be given if an activity notice has already been given for the activity or another activity that is substantially the same as the activity.

‘(3) An activity notice must state—

- (a) the mining tenement under which the existing activity is being carried out; and
- (b) the nature of the activity; and
- (c) that the activity is not authorised under the conditions of the transitional authority.

‘(4) To remove any doubt, it is declared that this section does not limit the application of sections 118ZZL and 118ZZM to the transitional authority or environmental authority (mining activities).

‘(5) In this section—

“relevant amendment application” means an application to amend the transitional authority that, if granted, would allow the carrying out of the activity under the authority.¹²⁶

‘Requirement to apply to amend or surrender transitional authority

‘250.(1) The holder of a transitional authority must, within the required period, make in relation to the authority—

- (a) a conversion application; or
- (b) an amendment, surrender or transfer application under chapter 2C.

‘(2) Also, if the holder does not also hold a relevant mining tenement, the holder must, on the happening of the earlier of the following, make a surrender application or an application under section 262 for the authority—

- (a) the replacement or amendment, under section 34HY, of any plan of operations for the authority;
- (b) 90 days before the transitional period ends.¹²⁷

‘(3) In this section—

“required period” means—

- (a) if the person is, under section 243, taken to hold the authority—6 months after the commencement day; or
- (b) otherwise—the transitional period.

¹²⁶ Sections 245 (Procedure if certificate of application issued and conditions decided), 118ZZI (Environmental authority or development approval required for level 2 environmentally relevant activity), 118ZZL (Contravention of condition of environmental authority) and 118ZZM (Environmental authority holder responsible for ensuring conditions complied with)

¹²⁷ Sections 262 (Consolidation of conditions for same mining project) and 34HY (Amending or replacing plan)

‘Notice by administering authority to amend or surrender transitional authority

‘251.(1) This section applies if the holder of a transitional authority does not make an application required under section 250.

‘(2) The administering authority may, by written notice (a **“reminder notice”**), require the holder to make the application within a fixed period of at least 10 business days.

‘(3) The reminder notice must state the following—

- (a) the application the holder is required to make under section 250;
- (b) the period fixed for making the application;
- (c) reasons for the decisions to make the requirement and to fix the period;
- (d) the review or appeal details for the decisions.

‘Consequences of failure to comply with reminder notice

‘252.(1) A person to whom a reminder notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘(2) The failure to comply with the reminder notice is, for applying chapter 2C, part 12 to the transitional authority, taken to be an event mentioned in section 34KE(2).¹²⁸

‘Financial assurance for transitional authority

‘253.(1) This section applies if, under the Mineral Resources Act, security has been deposited or required in relation to a relevant mining tenement for a transitional authority.

‘(2) A condition is taken to have been imposed, under section 115, on the authority that the authority holder must give the administering authority

¹²⁸ Chapter 2C, part 12 (Amendment, cancellation or suspension by administering authority) and section 34KE (Conditions)

financial assurance for each relevant mining tenement.

‘(3) If the security has been deposited under the Mineral Resources Act for a relevant mining tenement, the requirement under the condition to give the financial assurance is taken to have been complied with for the tenement.

‘(4) The financial assurance required under the condition is taken to be security for the matters mentioned in section 115(1)(a) and (b) in relation to the transitional authority.

‘(5) Subsection (4) applies despite the Mineral Resources Act or the terms of an instrument granting the security or other document, including, for example, a term that the security or its benefit is not transferable.

‘(6) For section 115(1), the form of the financial assurance for each relevant mining tenement is taken to have been required in the same form as each security given or required for the tenement.

‘(7) However, the financial assurance is taken to have been given for valuable consideration and any instrument granting it is taken to have been executed as a deed under seal by each party to the instrument.

‘(8) The amount of financial assurance for each relevant mining tenement is taken to have been decided under section 115(3) as the lesser of the following—

- (a) the amount of security given or required for each relevant mining tenement;
- (b) any amount the administering authority decides would have been the amount under section 115(3) for the financial assurance had the amount been decided on the commencement day.

‘(9) Section 116 and chapter 6, part 3 do not apply to financial assurance under this section or to a decision under subsection (8)(b).¹²⁹

‘Effect of financial assurance on security

‘**254.(1)** The financial assurance condition under section 253 only affects

¹²⁹ Sections 115 (When financial assurance may be required) and 116 (Person may show cause why financial assurance should not be required) and chapter 6, part 3 (Review of decisions and appeals)

a security to the extent provided under that section.

‘(2) Without limiting subsection (1), section 253 does not affect or change—

- (a) the security as a security under the Mineral Resources Act; or
- (b) the matters for which the security was given under that Act; or
- (c) the enforcement of the security under that Act, as amended by the amending Act.

‘(3) Section 253, or any thing done under it, does not—

- (a) discharge a security; or
- (b) discharge or release a surety or other obligee, wholly or partly, from an obligation; or
- (c) fulfil a condition allowing a person to terminate an instrument or be released, wholly or partly, from an obligation or modify the operation or effect of an instrument or obligation.

‘(4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to the giving of the financial assurance—

- (a) the advice is taken to have been obtained; and
- (b) the consent or notice is taken to have been given.

‘Plan of operations

‘255.(1) This section applies if a transitional authority is an environmental authority (mining lease).

‘(2) If a plan of operations for a relevant mining lease is in force under the Mineral Resources Act immediately before the commencement day, the plan—

- (a) is taken to be the plan of operations for the transitional authority submitted under section 34HW; but
- (b) continues in force only until the earlier of the following—
 - (i) the end of the period that the plan would, other than for the amending Act, have been in force under the Mineral

Resources Act;

(ii) the plan is replaced under section 34HY.¹³⁰

‘(3) If there is no plan of operations in force for a relevant mining lease immediately before the commencement day, the most recent expired plan of operations under the Mineral Resources Act for the lease—

- (a) is taken to be the plan of operations for the transitional authority submitted under section 34HW; but
- (b) continues in force only until 6 months after the commencement day.

‘(4) Section 213(1)(d)(vi) does not apply to a plan of operations that, under this section, is taken to be the plan of operations for an authority.

‘Annual fee and return for first year of transitional period

‘256.(1) This section applies to the holder of a transitional authority, instead of section 34LB,¹³¹ for the first year of the transitional period.

‘(2) The holder must, unless the holder has a reasonable excuse, do the following on or before the end of the first year—

- (a) pay the administering authority the appropriate annual fee, other than in a circumstance prescribed under a regulation for this paragraph; and
- (b) give the authority an annual return in the approved form.

Maximum penalty—100 penalty units.

‘(3) The administering authority may recover, as a debt, a fee required to be paid under this section that has not been paid.

‘(4) This section does not affect the application of section 34LB for the holder or the transitional authority for any period other than the first year of the authority.

¹³⁰ Sections 34HW (Plan of operations required before acting under relevant mining lease) and 34HY (Amending or replacing plan)

¹³¹ Section 34LB (Annual fee and return)

‘Anniversary day for certain transitional authorities

‘257.(1) The anniversary day for a transitional authority is the commencement day if—

- (a) under section 243,¹³² a person is taken to hold the authority; or
- (b) the authority was a level 2 approval under the existing Act.¹³³

‘(2) If a transitional authority ceases to be a transitional authority, but becomes another type of environmental authority (mining activities), the anniversary day for the environmental authority (mining activities) is taken to be the day the authority ceased to be a transitional authority.

‘Subdivision 3—Amendment and consolidation of transitional authorities

‘Conversion to standard authority by application

‘258.(1) This section applies despite chapter 2C, part 8.

‘(2) A transitional authority holder who holds each relevant mining tenement may apply to the administering authority to amend the transitional authority to substitute the relevant standard environmental conditions for each relevant mining activity for the existing conditions of the authority (a **“conversion application”**).

‘(3) A conversion application must—

- (a) be in the approved form; and
- (b) state that each relevant mining activity is a standard mining activity; and
- (c) either—
 - (i) state the relevant standard environmental conditions for each mining activity (the **“standard conditions”**); or

¹³² Section 243 (New environmental authority (mining activities) for existing activities)

¹³³ For other transitional authorities, see schedule 4, definition “anniversary day”.

- (ii) identify the standard conditions by reference to their gazettal or to a code of environmental compliance in which they are contained; and
- (d) state that the applicant applies to substitute the standard conditions for the existing conditions of the environmental authority; and
- (e) state that the applicant is able to comply with the standard conditions.

‘(4) A conversion application may also seek additional conditions for the authority.

‘(5) The administering authority must, within 10 business days after it receives the application, decide either to grant or refuse the application and whether to impose any additional conditions sought under the application.

‘(6) In making the decision, the authority must consider the criteria mentioned in section 34FO(2).

‘(7) An additional condition may be imposed only if the authority considers—

- (a) the condition is necessary or desirable; and
- (b) that, if the condition is included, each relevant mining activity would still be a standard mining activity.

‘(8) Section 34IH applies for the decision about the application as if the application were an amendment application under chapter 2C, part 8.

‘(9) If a conversion application is granted, the environmental authority—

- (a) ceases to be to be a non-standard environmental authority (mining activities); and
- (b) becomes a standard environmental authority (mining activities).

‘(10) This section does not prevent chapter 2C, part 8 applying to an amendment application, other than a conversion application, for the transitional authority.¹³⁴

¹³⁴ Chapter 2C, part 8 (Amendment of authorities by application)
Sections 34FO (Administering authority may refuse application) and 34IH (Steps after making decision)
See also section 247(2) (Meaning of “transitional authority” for div 4).

‘Other amendment applications

‘**259.(1)** This section applies if an application, other than a conversion application, is made to amend a transitional authority.

‘**(2)** Chapter 2C, part 8, applies to the application.

‘**(3)** However, chapter 2C, part 6, division 6,¹³⁵ does not apply to the application if—

- (a) the activities authorised under each relevant mining tenement have not changed since the commencement day; and
- (b) no application has been made to change the activities authorised under any relevant mining tenement.

‘Additional grounds for amendment by administering authority

‘**260.** For applying section 34KD for a transitional authority, the following grounds apply, as well as the grounds under section 34KD(2)—

- (a) the ending of the transitional period;
- (b) the administering authority can not, by applying section 242 or 244, work out the conditions of the transitional authority;
- (c) a condition of the transitional authority under section 242 or 244 creates a right or imposes an obligation that the administering authority considers is uncertain or not reasonably enforceable;
- (d) if the transitional authority is an environmental authority (mining lease)—the authority holder submits or amends a plan of operations for the authority;
- (e) the amendment is necessary to prevent environmental harm not already authorised under the environmental authority.¹³⁶

¹³⁵ Chapter 2C, part 6, division 6 (Public notice and objections stage for all applications). See also section 34IO (Relevant application process applies).

¹³⁶ Sections 34KD (Other amendments—non-standard authorities), 242 and 244 (Conditions of environmental authority)

‘Ministerial power to amend

‘**261.(1)** This section applies to an environmental authority (mining activities) that is, or has been, a transitional authority.

‘**(2)** During the transitional period the Minister may amend the authority if the Minister—

- (a) gives the environmental authority holder a written notice (an “**amendment notice**”) stating—
 - (i) the proposed amendment; and
 - (ii) the Minister’s reasons for the amendment; and
 - (iii) that the holder may, within a stated period of at least 10 business days, make written representations to show why the amendment should not be made; and
- (b) considers any written representations made by the holder within the stated period.

‘**(3)** The administering authority must, within 10 business days after the Minister decides to amend the environmental authority—

- (a) make the amendment; and
- (b) give the holder a copy of the amended environmental authority; and
- (c) record particulars of the amendment in the appropriate register.

‘**(4)** If the Minister gave an amendment notice, but decided not to make the proposed amendment, the administering authority must, within 10 business days after the decision is made, give the holder a written notice of the decision.

‘Consolidation of conditions for same mining project

‘**262.(1)** This section applies—

- (a) if more than 1 person holds a transitional authority for the same mining project; and
- (b) despite chapter 2C.

‘(2) A person who holds a transitional authority for the project, may apply to the administering authority to—

- (a) amend any environmental authority (mining activities) held by a stated holder of a relevant mining tenement to include the conditions of the applicant’s transitional authority; and
- (b) surrender the applicant’s transitional authority.

‘(3) The application must—

- (a) be in the approved form; and
- (b) if the stated mining tenement holder is not the applicant—be accompanied by the tenement holder’s written consent.

‘(4) The administering authority must, within 10 business days after it receives the application, decide either to grant or refuse it.

‘(5) If the authority decides to grant the application, it must within 10 business days after the decision is made—

- (a) amend the stated mining tenement holder’s environmental authority (mining activities) to give effect to the amendment; and
- (b) record the surrender in the appropriate register; and
- (c) give the mining tenement holder a copy of the amended authority.

‘(6) The amendment takes effect on the day of the amendment or a later day stated in the amended authority.

‘(7) If the authority decides to refuse the application, it must within 10 business days after the decision is made, give each applicant an information notice about the decision.

‘(8) This section does not limit the authority’s power to amend an environmental authority (mining activities) under chapter 2C, part 12 or section 260.¹³⁷

¹³⁷ Chapter 2C, part 12 (Amendment, cancellation or suspension by administering authority) or section 260 (Additional grounds for amendment by administering authority)

‘Subdivision 4—Environmental management document requirements**‘Environmental management document may be required**

‘263.(1) This section applies if a transitional authority is—

- (a) an environmental authority (exploration); or
- (b) an environmental authority (mineral development); or
- (c) an environmental authority (mining lease).

‘(2) During the transitional period, the administering authority may require the holder of the transitional authority to submit to it—

- (a) for an environmental authority (exploration) or an environmental authority (mineral development)—an environmental management plan that complies with the content requirements under section 34GE; or
- (b) for an environmental authority (mining lease)—an EMOS that complies with the content requirements under section 34GS.¹³⁸

‘(3) However, the requirement may be given to the holder only by a written notice—

- (a) stating the following—
 - (i) the holder’s name;
 - (ii) the transitional authority;
 - (iii) the requirement;
 - (iv) a reasonable period of at least 28 days for the requirement to be complied with; and
- (b) that is accompanied by, or includes, an information notice about the decision to make the requirement.

‘(4) An environmental management plan or EMOS submitted under this section is taken to be the environmental management document submitted for the transitional authority.

¹³⁸ Sections 34GE (Environmental management plan—content requirements) and 34GS (EMOS—content requirements)

‘Consequence of failure to comply with requirement

‘264.(1) If a person fails to comply with an environmental document requirement for a transitional authority, section 34KE applies for the transitional authority as if—

- (a) the failure was an event mentioned in section 34KE(2); and
- (b) the reference to cancellation or suspension in section 34KE(1) is a reference only to suspension.

‘(2) Subsection (1) does not prevent the administering authority deciding to amend the transitional authority under chapter 2C, part 12.¹³⁹

‘Division 5—Transitional provisions other than for mining activities**‘Application of div 5**

‘265. This division applies for an environmental authority, or an application for an environmental authority, under the existing Act, other than for a mining activity.

‘Unfinished applications under existing Act

‘266.(1) An application for a licence under chapter 3, part 4, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be an application for a licence (without development approval) under chapter 2B, part 3, division 2, subdivision 1.

‘(2) An application for a level 1 approval under chapter 3, part 4, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be a conversion application under chapter 2B, part 4.

‘(3) An application for a licence under chapter 3, part 4A, of the existing Act that, immediately before the commencement day, has not been decided

¹³⁹ Section 34KE (Conditions)

Chapter 2C, part 12 (Amendment, cancellation or suspension by administering authority)

is taken on the commencement day to be an application for a licence (with development approval) under chapter 2B, part 3, division 1.

‘(4) An application for a level 1 approval under chapter 3, part 4A, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be a conversion application under chapter 2B, part 4.

‘(5) An application for a development approval under chapter 3, part 4B, of the existing Act that, immediately before the commencement day, has not been decided is taken on the commencement day to be an application to which chapter 2B, part 2 applies.

‘(6) An application under chapter 3 of the existing Act to amend an environmental authority that, immediately before the commencement day, has not been decided is taken on the commencement day to be an amendment application under chapter 2B, part 5.

‘(7) An application under chapter 3 of the existing Act to transfer an environmental authority that, immediately before the commencement day, has not been decided is taken on the commencement day to be a transfer application under chapter 2B, part 6.¹⁴⁰

‘**Environmental authorities under existing Act**

‘**267.(1)** A provisional licence in force under section 47¹⁴¹ of the existing Act is taken on the commencement day to be a provisional licence issued on the same day as the day the provisional licence under section 47 was issued.

¹⁴⁰ Existing Act, chapter 3, parts 4 (Environmental authorities for environmentally relevant activities without development approvals), 4A (Environmental authorities for level 1 environmentally relevant activities with development approvals) and 4B (Development approvals for certain environmentally relevant activities).

Chapter 2B, part 3, division 1 (Obtaining licence (with development approval) for level 1 environmentally relevant activity) and division 2, subdivision 1 (General provisions for obtaining licence)

Chapter 2B, parts 2 (Development approvals), 4 (Conversion of licence to level 1 approval), 5 (Amending environmental authorities by application) and 6 (Dealings with licences)

¹⁴¹ Existing Act, section 47 (Provisional licence)

‘(2) A licence in force under the existing Act is taken on the commencement day to be a licence under this Act as amended by the amending Act.

‘(3) A level 1 approval in force under the existing Act is taken on the commencement day to be a level 1 approval under this Act as amended by the amending Act.

‘(4) A level 2 approval in force under the existing Act is taken on the commencement day to be a level 2 approval under this Act as amended by the amending Act.

‘(5) This section does not limit the *Environmental Protection Regulation 1998*, section 73.¹⁴²

‘Division 6—Miscellaneous provisions

‘Requirement to seek advice from MRA chief executive

‘268. The requirement under section 34KN¹⁴³ applies for a decision by the Minister or the administering authority to amend an environmental authority (mining activities) under this part, unless the authority holder has agreed in writing to the amendment.

‘Existing Act continues to apply for special agreement Acts

‘269.(1) The existing Act continues to apply for an activity, circumstance, or matter provided for under, or to which, a special agreement Act applies as if the amending Act, other than for the insertion of section 239¹⁴⁴ and this section, had not been enacted.

‘(2) In this section—

“**special agreement Act**” means any of the following Acts and any

¹⁴² *Environmental Protection Regulation 1998*, section 73 (Person taken to have authority to carry out activity)

¹⁴³ Section 34KN (Requirement to seek advice with MRA chief executive)

¹⁴⁴ Section 239 (Definitions for pt 2)

agreement or lease under or mentioned in the Acts—

- (a) *Alcan Queensland Pty. Limited Agreement Act 1965*;
- (b) *Aurukun Associates Agreement Act 1975*;
- (c) *Central Queensland Coal Associates Agreement Act 1968*;
- (d) *Central Queensland Coal Associates Agreement and Queensland Coal Trust Act 1984*;
- (e) *Central Queensland Coal Associates Agreement (Amendment) Act 1986*;
- (f) *Central Queensland Coal Associates Agreement Amendment Act 1989*;
- (g) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*;
- (h) *Greenvale Agreement Act Amendment Act 1974*;
- (i) *Greenvale Agreement Act Amendment Act 1975*;
- (j) *Mount Isa Mines Limited Agreement Act 1985*;
- (k) *Queensland Cement & Lime Company Limited Agreement Act 1977*;
- (l) *Queensland Nickel Agreement Act 1970*;
- (m) *Queensland Nickel Agreement Act 1988*;
- (n) *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*;
- (o) *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Act 1965*.

‘Transitional regulation-making power for pt 2

‘270.(1) A regulation (a “**transitional regulation**”) may make provision about a matter for which—

- (a) it is necessary or convenient to make provision to allow or facilitate the doing of anything—
 - (i) to achieve the transition from the operation of the existing Act to the operation of this Act as amended by the amending Act; or

- (ii) for a matter provided for under the Mineral Resources Act before the amending Act that, because of the amending Act, will be provided for under this Act; or
 - (iii) to effectively regulate the environmental impact of mining activities; and
- (b) this Act does not make provision or sufficient provision.
- ‘(2) A transitional regulation must declare it is a transitional regulation.
- ‘(3) A transitional regulation expires on the earlier of the following—
- (a) 1 year after it is made;
 - (b) when the transitional period ends.
- ‘(4) This section expires when the transitional period ends.

‘Validation

‘271.(1) To remove any doubt, it is declared that the *Environmental Protection Regulation 1998*, part 2A¹⁴⁵ was, and is taken to have always been, validly made.

‘(2) This section expires the day after it commences.

‘Numbering and renumbering of Act

‘272.(1) In the next reprint of this Act, the provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.

‘(2) In the next reprint of any other Act or of any subordinate legislation, a reference to a provision of this Act must, if the context permits, be changed to agree with the numbering and renumbering.

‘(3) In an approved form or other document, a reference to a provision of the Act is, if the context permits, taken to be changed to agree with the numbering and renumbering.’.

¹⁴⁵ *Environmental Protection Regulation 1998*, part 2A (Environmental nuisance)

Replacement of sch 1 (Original decisions)

53. Schedule 1—

omit, insert—

‘SCHEDULE 1

‘ORIGINAL DECISIONS

sections 200 and 203

‘PART 1—ORIGINAL DECISIONS FOR TRIBUNAL APPEALS

‘Division 1—Decisions under chapter 2A

‘Section	Description of decision
34AF(3)(c)	Decision about giving TOR notice
34AN(2)(a) (iii)	Decision about giving EIS notice
34AN(2)(b)(ii)	Decision about way of publishing EIS notice
34BF(1) and (2)	Decision not to allow EIS to proceed
34BF(3)(a)	Fixing of new notice period
34BF(3)(b)	Fixing of new comment or submission period.

‘Division 2—Decisions under chapter 2C

‘Section	Description of decision
34GI(1)	Refusal of application for environmental authority (exploration) or environmental authority (mineral development)
34GI(2)	Imposition of conditions of environmental authority (exploration) or environmental authority (mineral development)
34GW(1)	Refusal of environmental authority (mining lease) application (for a non-standard application only)
34HA(3)	Decision to require another way of publishing application notice
34HE(1) and (2)	Decision not to allow application to proceed
34JI(2)	Decision to give surrender notice
34JI(2)	Fixing of period for compliance with surrender notice
34JO	Refusal of surrender application.

‘Division 3—Decisions under chapter 3

‘Section	Description of decision
117(3)(b)	Refusal to amend or discharge a financial assurance for an environmental authority (mining activities).

‘Division 4—Decisions under chapter 7, part 3

‘Section	Description of decision
219AR	Refusal of disclosure exemption application

219AT	Grant of disclosure exemption application for only part of the information the subject of the application or for a stated period.
-------	---

‘PART 2—ORIGINAL DECISIONS FOR COURT APPEALS

‘Division 1—Decisions under chapter 2B

‘Section	Description of decision
34BU	Refusal of application for licence (with development approval) application
34BW(1)	Imposition of licence condition
34CF(1) and (2)	Decision not to allow application to proceed
34CF(3)(b)(i)	Fixing of a new notice or submission period
34CI	Grant or refusal of licence (without development approval)
34CK(1)	Imposition of licence condition
34CM(2)	Issue of provisional licence
34CM(4)	Imposition of provisional licence condition
34CT	Refusal of level 2 approval (with development approval) application
34CV(1)	Imposition of level 2 approval condition
34DC	Refusal of conversion application
34DE(3)	Imposition of another condition on level 1 approval
34DK(2)	Decision to make public notice requirement for amendment application

34DL	Grant or refusal of amendment application
34DT	Refusal of transfer application
34EC(1)	Proposed action decision
34EM(2)	Refusal to extend period personal representative is taken to be environmental authority holder.

‘Division 2—Decisions under chapter 2C

‘Section	Description of decision
34IR(2)(b)(ii)	Decision to require another way of publishing notice of amendment application
34IU(1)	Refusal of amendment application
34IZ(1)	Refusal of transfer application
34JR(1)	Decision to give audit notice
34JR(1) and (3)(d)	Fixing of period for conducting or commissioning environmental audit and giving environmental audit report
34JU(1)	Decision to conduct or commission an environmental audit or prepare an environmental audit report
34KI(1)	Proposed action decision, other than a decision to amend a standard environmental authority (mining activities).

‘Division 3—Decisions under chapter 3

‘Section	Description of decision
72(1)	Requirement for environmental audit
73(1)	Requirement for environmental investigation
76(4)	Requirement for additional information about an environmental evaluation

78(1)	Extension of time for decision on submission of environmental report
82(1) or (2)	Requirement for draft environmental management program
88(1) or 94A	Decision on whether to approve, or to approve an amendment of an approval of, a draft environmental management program
90(3)	Imposition of conditions on an environmental management program approval
91	Refusal to approve draft environmental management program
92(1)	Extension of time for decision on submission of draft environmental management program
104(3)(a)	Removal of immunity from prosecution for a person under a refusal to approve a draft environmental management program
109	Issue of environmental protection order
117(3)	Refusal to amend or discharge a financial assurance, other than for an environmental authority (mining activities)
118(2)	Claim on, or realisation of, financial assurance
118B(3)	Refusal to grant an application for an approval
118B(5) and (6)	Imposition of conditions on an approval
118B(6)	Revocation, or varying conditions, of an approval
118H(1)	Decision whether land has been, or is being, used for a notifiable activity or is contaminated land
118J(2)	Requirement for site investigation
118L(3)	Refusal of application for waiver of requirement to conduct or commission site investigation and report
118R(1)	Decision whether land is contaminated land

118R(2)	Decision about particulars of land in contaminated land register
118S(2)	Requirement for further information about site investigation and report
118V(1)	Extension of time to make decision about site investigation report
118Y(1)	Requirement to conduct or commission work to remediate contaminated land
118Z(3)	Refusal of application for waiver of requirement to conduct or commission work to remediate contaminated land
118ZD(1)	Decision whether land is still contaminated land
118ZF(2)	Requirement for additional information about validation report
118ZG(1)	Extension of time for consideration of validation report
118ZM(2)(a)	Decision to prepare site management plan
118ZM(2)(b) or 118ZS(1)	Requirement to prepare or commission site management plan
118ZO(3)	Refusal of application for waiver of requirement to prepare or commission site management plan
118ZS(2)(a)	Requirement for additional information about site management plan
118ZT	Decision on whether to approve draft site management plan
118ZW(1)	Extension of time for decision about approval of draft site management plan
118ZZA(2)(a)	Decision to prepare an amendment of a site management plan
118ZZA(2)(b)	Requirement for preparation and submission of draft amendment of site management plan

118ZZE(1)	Erection of sign on contaminated land for which particulars are not recorded on the environmental management register or contaminated land register
118ZZF(3)	Refusal of disposal permit application
118Z ZF(3) and (4)	Imposition of conditions on disposal permit
134(1)	Requirement for information relevant to the administration or enforcement of this Act.

‘Division 4—Decisions under chapter 7, part 2

‘Section	Description of decision
219AG(2)	Extension of period for deciding application relating to environmental authority or EMP submission
219AH(1)(a)	Requirement for additional information about an application or EMP submission.

‘Division 5—Decisions under chapter 8

‘Section	Description of decision
251(2)	Decision to give reminder notice
251(2)	Fixing of period for compliance with reminder notice
262(4)	Decision about consolidating transitional authorities for same mining project
263(2)	Decision to make environmental document requirement for transitional authority.’.

Omission of sch 2 (Acts repealed)

54. Schedule 2—

omit.

Amendment of sch 3 (Notifiable activities)

55.(1) Schedule 3, item 14, ‘of the following’—

omit, insert—

‘of any of the following’.

(2) Schedule 3, item 27, after ‘operating premises’—

insert—

‘, other than premises operated for farming crops or stock,’.

(3) Schedule 3, item 37, ‘regulated waste’—

omit, insert—

‘waste prescribed under a regulation to be regulated waste for this item’.

Amendment of sch 4 (Dictionary)

56.(1) Schedule 4, definitions “**abate**”, “**application date**”, “**business**”, “**buyer**”, “**class 1, 2 or 3 environmental offence**”, “**development approval**”, “**environmental audit**”, “**environmental authority**”, “**environmentally relevant activity**”, “**interested party**”, “**interstate environmental authority**”, “**level 1 approval**”, “**level 2 approval**”, “**licence**”, “**mining authority**”, “**noise abatement direction**”, “**chapter 3, part 4 environmental authority**”, “**chapter 3, part 4A environmental authority**” and “**preliminary investigation**”—

omit.

(2) Schedule 4—

insert—

‘ “**additional condition**”, for an application for or about a standard environmental authority (mining activities), means a condition other than a relevant standard environmental condition.

“**affected person**”, for a project, see section 34AA.

“**amendment application**” for—

(a) chapter 2B—see section 34DI; or

(b) chapter 2C—see section 34IB.

“anniversary day”, for an environmental authority means the anniversary of the day the authority is issued, whether or not it has been amended or transferred.¹⁴⁶

“annual notice” see section 34LB(2).

“applicant” for chapter 7, part 2, see section 219AC.

“applicants” for chapter 2C, part 9, see section 34IX(1)(b)

“application date” see section 219AD.

“application documents”, for chapter 2C, see section 34ER.

“application notice”, for—

(b) chapter 2B, part 3, division 2, subdivision 1—see section 34CC(1)(a); or

(b) chapter 2C, part 6—see section 34HA.

“application requirements”, for chapter 2C, see section 34EV(5).

“appropriately qualified”, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of ‘standing’—

A person’s classification level in the public service.

“assessable development” means assessable development as defined under the Integrated Planning Act.

“assessment level decision”—

(a) generally, means—

(i) the assessment level decision under section 34FC(1); or

(ii) if the EPA Minister has made the assessment level decision under section 34FG(2)—that decision; or

(b) for chapter 2C, part 8—

(i) the assessment level decision under section 34IJ(1)(a) and (3); or

¹⁴⁶ See, however, section 257 (Anniversary day for certain transitional authorities)

- (ii) if the EPA Minister has made the assessment level decision under section 34IK(2)—that decision.

“assessment period” for—

- (a) chapter 2C, part 5, division 3—see section 34GG(2); or
(b) chapter 2C, part 6, division 3—see section 34GU(2).

“audit notice” see section 34JR(1).

“auditor” means an individual who holds an appointment as an auditor under section 34JW.

“bilateral agreement” means a bilateral agreement as defined under the Commonwealth Environment Act to which the State is a party.

“business”, of a holder of an environmental authority, means the business of carrying out the environmentally relevant activity the subject of the authority.

“business days”, for chapter 2A, part 1, see section 34AB.

“code of environmental compliance” means a code of environmental compliance approved or made under a regulation.

“comment period”, for chapter 2A, part 1, see section 34AB.

“Commonwealth Environment Act” means the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

“conditions”, for an environmental authority, includes a condition of an environmental authority that has ended or ceased to have effect if the condition imposed an obligation that continues to apply after the authority has ended or ceased to have effect.

“conversion application”, for chapter 2B, part 4, see section 34DA.

“correction”, for—

- (a) chapter 2B, part 7—see section 34DW; or
(b) chapter 2C, part 12—see section 34KB.

“corresponding law” means under a law of the Commonwealth or another State that provides for the same or similar matters as this Act.

“current objection”, for an application, means an objection to the

application that—

- (a) the administering authority has accepted; and
- (b) has not been withdrawn.

“deciding”, for an application or submission, for chapter 7, part 2, see section 219AC.

“development approval” means development approval as defined under the Integrated Planning Act.

“disclosure exemption” see section 219AP.

“disqualifying event” means—

- (a) a conviction for an environmental offence; or
- (b) the cancellation or suspension of—
 - (i) an environmental authority; or
 - (ii) an authority, instrument, licence or permit, however called, similar to an environmental authority under a corresponding law.

“draft environmental authority”, for an environmental authority (mining activities) application, means the draft environmental authority for the application prepared by the administering authority under chapter 2C, part 4, division 3 or part 6, division 5.

“draft terms of reference”, for an EIS, see section 34AB.

“EIS” means an environmental impact statement.

“EIS amendment notice” see section 34BD(3).

“EIS assessment report” see section 34AT.

“EIS decision”, for chapter 2C, part 8, means—

- (a) the EIS decision under section 34IJ(1)(b) and (4); or
- (b) if the EPA Minister has made a decision under section 34IK(3)—that decision.

“EIS notice” see section 34AN(2)(a).

“EIS process”, for an EIS, means the process for the EIS under

chapter 2A, part 1.

“EIS requirement”, for an application, means that an EIS has been required under this Act for the application.

“EMOS” means an environmental management overview strategy.

“EMOS amendment notice”, for chapter 2C, see section 34GT(3).

“EMOS assessment report”, for chapter 2C, part 6, see section 34GU(1).

“EM plan assessment report”, for chapter 2C, part 5, see section 34GG(1).

“EMP submission”, for chapter 7, part 2, see section 219AC.

“enter”, a place, includes re-enter the place.

“entry order”, for chapter 7, part 4, see section 219BA(2).

“environmental audit” for chapter 3, part 5, see section 72.

“environmental authority” means an environmental authority under chapter 2B or 2C.

“environmental authority (exploration)” see section 34EP(c).

“environmental authority (mineral development)” see section 34EP(d).

“environmental authority (mining activities)” see section 34EN(2).

“environmental authority (mining claim)” see section 34EP(b).

“environmental authority (mining lease)” see section 34EP(e).

“environmental authority (prospecting)” see section 34EP(a).

“environmentally relevant activity” see section 17A.

“environmental management document” means an environmental management plan or an EMOS.

“environmental management plan”, for chapter 2A, part 1, see section 34AB.

“environmental offence” means—

(a) an offence against any of the following provisions—

- section 72

- section 73
 - section 108(5)
 - section 112
 - section 34HZ(3)
 - chapter 2C, parts 10 and 11
 - chapter 3A; 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 protection commitment”, for an environmental management document, means—

- (a) a commitment under, or stated in, the document; or
- (b) an obligation imposed, or an undertaking given, under the document; or
- (c) a requirement under the document to produce a stated outcome.

“environmental requirement” means—

- (a) an environmental authority; or
- (b) an environmental management program; or
- (c) a site management plan.

“EPA Minister” means the Minister for the time being administering this Act.

“EPP requirement” means a requirement under an environmental protection policy for the administering authority to—

- (a) follow stated procedure in evaluating an environmental authority application; or
- (b) grant or refuse an environmental authority application or impose a condition on an environmental authority.

“exempted material”, for chapter 7, part 3, division 2, see section 219AW.

“exploration permit” means—

- (a) an exploration permit under the Mineral Resources Act; or
- (b) a former exploration permit under the Mineral Resources Act continued in effect under section 148 of that Act.

“final terms of reference”, for chapter 2A, part 1, see section 34AB.

“final rehabilitation report” means a final rehabilitation report prepared under chapter 2C, part 10, division 2, subdivision 2.

“FRR amendment notice”, for chapter 2C, see section 34JM(3).

“FRR assessment report”, for chapter 2C, see section 34JN.

“holder”, for a mining tenement, means a holder of the tenement under the Mineral Resources Act.

“TEMS submission” see section 34KX(2)(a).

“information notice”, about a decision, means a written notice stating—

- (a) the decision; and
- (b) if the decision is a decision other than to impose a condition on an environmental authority, the reasons for the decision; and
- (c) the review or appeal details.

“integrated authority” see section 34KW(4).

“interested person”, for chapter 2A, part 1, see section 34AB.

“joint applicants”, for chapter 2C, part 2, division 2, subdivision 3, see section 34EY.

“joint application”, for chapter 2C, part 2, division 2, subdivision 3, see section 34EZ(1).

“level 1 approval” see section 34BL(1)(c).

“level 1 approval (with development approval)” see section 34BL(3)(a).

“level 1 approval (without development approval)” see section 34BL(3)(b).

“level 1 environmentally relevant activity” means a level 1 environmentally relevant activity under section 17C(3).

“level 2 approval” see section 34BL(1)(d).

“level 2 environmentally relevant activity” means a level 2 environmentally relevant activity under section 17C(2).

“licence” means a licence under section 34BL, including a provisional licence.

“licence (with development approval)” see section 34BL(2)(a).

“licence (without development approval)” see section 34BL(2)(b).

“mineral development licence” means—

- (a) a mineral development licence under the Mineral Resources Act; or
- (b) a former mineral development licence under the Mineral Resources Act continued in effect under section 215 of that Act.

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

“mining activity” see section 34EO.

“mining claim” means a mining claim under the Mineral Resources Act.

“mining lease” means a mining lease under the Mineral Resources Act.

“mining project” see section 34EQ.

“mining registrar”, for an application or a mining tenement, means the mining registrar under the Mineral Resources Act for the district under that Act for the land to which the application or tenement relates.

“mining tenement” means a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease.

“Minister’s decision” for chapter 2C, part 6, division 7, subdivision 1, see section 34HO(1).

“missing information”, for a provisional licence, see section 34CM(5).

“MRA Minister” means the Minister for the time being administering the Mineral Resources Act.

“non-standard application” means an application for an environmental authority (mining activities) decided, or taken to have been decided, to be a non-standard application under chapter 2C, part 2, division 3.

“non-standard environmental authority (mining activities)” means an

environmental authority (mining activities) that is not for a standard mining activity.

“objection period”, for chapter 2C, means—

- (a) the objection period under section 34HB; or
- (b) if section 34HE applies—any new objection fixed under section 34HE(3)(b)(ii).

“objections decision”, for chapter 2C, see section 34HI(1).

“objector”, for an application, means an entity that makes a properly made objection about the application whose objection has not been withdrawn.

“operational land”, for chapter 2A, part 1, see section 34AB.

“owner”—

1. The **“owner”** of land is—

- (a) for freehold land—the person recorded in the freehold land register as the person entitled to the fee simple interest in the land; or
- (b) for land held under a lease, licence or permit under an Act—the person who holds the lease, licence or permit; or
- (c) for trust land under the *Land Act 1994*—the trustees of the land; or
- (d) for Aboriginal land under the *Aboriginal Land Act 1991*—the persons to whom the land has been transferred or granted; or
- (e) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991*—the persons to whom the land has been transferred or granted; or
- (f) for land for which there is a native title holder under the Commonwealth Native Title Act—each registered native title party in relation to the land.

2. Also, a mortgagee of land is the owner of the land if—

- (a) the mortgagee is acting as a mortgagee in possession of the land and has the exclusive management and control of the land; or

- (b) the mortgagee, or a person appointed by the mortgagee, is in possession of the land and has the exclusive management and control of the land.

“person”, for—

- (a) chapter 2A, part 1—see section 34AB; or
(b) chapter 2B, part 3, division 2, subdivision 1—see section 34BZ.

“preliminary investigation”, for land, means an investigation to find out whether the land is contaminated land.

“properly made objection” see section 34HG(2).

“properly made submission”, for—

- (a) chapter 2A—see section 34AR(2); or
(b) chapter 2B, part 3, division 2, subdivision 1—see section 34CH(2).

“proponent”, for chapter 2A, part 1, see section 34AB.

“proposed action”, for—

- (a) chapter 2B, part 7, division 2—see section 34EA(1)(a); or
(b) chapter 2C, part 12, division 2—see section 34KG(1)(a).

“proposed action decision”, for—

- (a) chapter 2B, part 7, division 2—see 34EC(2); or
(b) chapter 2C—see section 34KI(2).

“proposed holder” means—

- (a) for an application for an environmental authority, any applicant for the environmental authority; or
(b) for an application to transfer an environmental authority, the proposed transferee.

“proposed transferee”, for chapter 2B, part 6, see section 34DQ(1).

“prospecting permit” means—

- (a) a prospecting permit under the Mineral Resources Act; or
(b) a former prospecting permit under the Mineral Resources Act

continued in effect under section 30 of that Act.

“provisional licence” see section 34BL(1)(b).

“public notice requirement”, for chapter 2B, part 5, see section 34DK(2).

“public notice requirements”, for chapter 2C, part 6—see section 34HD(1).

“refusal period”, for—

- (a) for chapter 2C, part 4—see section 34FO(1); or
- (b) for chapter 2C, part 6—see section 34GW(1).

“relevant local government”, for land, means the local government for the local government area where the land is situated.

“relevant mining activity”, for—

- (a) an application for or about an environmental authority (mining activities)—means a mining activity the subject of the application; or
- (b) an environmental authority (mining activities)—means a mining activity the subject of the authority.

“relevant mining lease”, for an environmental authority (mining lease) means a mining lease, or proposed mining lease, to which the relevant mining activity for the authority relates.

“relevant mining tenement”, for an environmental authority (mining activities) or an environmental authority (mining activities) application, means a mining tenement, or proposed mining tenement, to which a relevant mining activity relates.

“relevant standard environmental conditions”, for an environmental authority (mining activities), or proposed environmental authority (mining activities), means the standard environmental conditions applying to the activities the subject of the authority.

“replacement environmental authority”, for an environmental authority, means another environmental authority that is the same, substantially the same or replaces the environmental authority.

“review or appeal details”, for a notice or order, means a statement in the notice or order as follows—

- (a) that a person as follows may apply for a review of, or appeal against, the decision to which the notice or order relates—
 - (i) the person given the notice or order;
 - (ii) another dissatisfied person for the original decision to which the notice or order relates;
- (b) about whether the person may apply for a review or may appeal against the decision;
- (c) about the period or time allowed for making the application for a review or for starting an appeal;
- (d) if the person may apply for a review—about how to apply for a review;
- (e) if the person may appeal—about how to start an appeal.

“security” includes bond, deposit of an amount as security, guarantee, indemnity or other surety, insurance, mortgage and undertaking.

“standard application” means an application for an environmental authority (mining activities) decided, or taken to have been decided, to be a standard application under chapter 2C, part 2, division 3.

“standard environmental authority (mining activities)” means an environmental authority (mining activities) that is only for a standard mining activity.

“standard environmental conditions”, for an environmental authority, means the standard environmental conditions approved for the authority under section 219AA.

“standard mining activity” means a mining activity or proposed mining activity decided to be a standard mining activity under section 34ES.

“State Development Act” means the *State Development and Public Works Organisation Act 1971*.

“submission period”, for—

- (a) chapter 2A, part 1—see section 34AB; or
- (b) chapter 2B, part 3, division 3, subdivision 1—see section 34BZ.

“submitted EMOS”, for chapter 2C, see section 34GQ(1).

“**submitter**”, for an application, means a person who makes a properly made submission about the application.

“**suitability report**” see section 219AL(1).

“**surrender application**” see section 34JF(1)(a).

“**surrender notice**” see section 34JI(2).

“**TOR notice**” see section 34AE(1).

“**transfer application**” for—

(a) chapter 2B—see section 34DR(a).

(b) chapter 2C—see section 34IW(1)(a).

“**tribunal**” means the Land and Resources Tribunal.’.

(3) Schedule 4, definition, “**disposal permit**”, ‘remove and dispose’—

omit, insert—

‘remove and treat or dispose’.

(4) Schedule 4, definition, “**hazardous contaminant**”, after ‘a contaminant’—

insert—

‘, other than unexploded ordnance,’.

(5) Schedule 4, definition, “**integrated environmental management system**”, after ‘activity’—

insert—

‘or activities’.

(6) Schedule 4, definition, “**licensed place**”, ‘a licence’—

omit, insert—

‘an environmental authority’.

(7) Schedule 4, definition “**standard criteria**”, paragraph (f), ‘and interested parties’—

omit, insert—

‘and submitters’.

(8) Schedule 4, definition “**standard criteria**”—

insert—

‘(ja) for an environmental authority—any integrated environmental management system for the authority; and’.

PART 3—AMENDMENT OF INTEGRATED PLANNING ACT 1997

Act amended in pt 3 and schedule

57.(1) This part amends the *Integrated Planning Act 1997*.

(2) The schedule also includes amendments of the *Integrated Planning Act 1997*.

Amendment of s 2.6.8 (Minister may proceed straight to designation in certain circumstances)

58. Section 2.6.8(a)(i)—

omit, insert—

- ‘(i) the coordinator-general has, under the *State Development and Public Works Organisation Act 1971*, section 29K,¹⁴⁷ prepared a report evaluating an EIS for a project that includes the community infrastructure; or
- (ii) the process under the *Environmental Protection Act 1994*, chapter 2A, part 1¹⁴⁸ has been completed for an EIS for a project that includes the community infrastructure; or’.

¹⁴⁷ *State Development and Public Works Organisation Act 1971*, section 29K (Coordinator-General evaluates EIS, submissions, other material and prepares report)

¹⁴⁸ *Environmental Protection Act 1994*, chapter 2A, part 1 (EIS process)

Amendment of sch 8 (Assessable, self-assessable and exempt development)

59. Schedule 8, part 3—

insert—

‘**10B.** A mining activity to which an environmental authority (mining activities) under the *Environmental Protection Act 1994* applies.’.

**PART 4—AMENDMENT OF MINERAL RESOURCES
ACT 1989**

Act amended in pt 4

60.(1) This part amends the *Mineral Resources Act 1989*.

(2) The schedule also includes amendments of the *Mineral Resources Act 1989*.

Amendment of s 5 (Definitions)

61.(1) Section 5, ‘In this Act—’—

omit, insert—

‘The dictionary in the schedule defines particular words used in this Act.¹⁴⁹’.

(2) Section 5, definitions “**contaminated land**”, “**environmental impact**”, “**environmental impact statement**”, “**hazardous contaminant**”, “**last objection day**”, “**mining project**”, and “**rehabilitation**”—

omit.

(3) Section 5—

¹⁴⁹ However, for the native title provisions, see also section 423 (Other provisions for interpretation of native title provisions).

insert—

‘ **“access agreement”** for—

- (a) part 13—see section 429; or
- (b) part 15, division 2—see section 485; or
- (c) part 16, division 2—see section 541.

“applicant” for—

- (a) the native title provisions generally—see section 422; or
- (b) part 13—see section 429; or
- (c) part 15, division 2—see section 485; or
- (d) part 16, division 2—see section 541; or
- (e) part 17, division 4—see section 651.

“application notice” for—

- (a) part 13—see section 431(1); or
- (b) part 15, division 2—see section 486(1); or
- (c) part 16, division 2—see section 542(1).

“approval”, for part 17, division 6, see section 696.

“approved opal or gem mining area”, for the native title provisions, see section 422.

“certificate of public notice” for—

- (a) an application for a mining claim, means the certificate of public notice for the application given under section 64A; or
- (b) an application for a mining lease, means—
 - (i) the certificate of public notice for the application given under section 252A; or
 - (ii) if the certificate of public notice has been reissued under section 253—the reissued certificate.

“closing day (native title issues)”, for part 17, division 4, see section 653(3).

“**combined hearing**”, for part 17, division 4, see section 671.

“**compensation decision**”, for part 18, see section 706.

“**compensation trust decision**”, for part 18, see section 706.

“**consultation and negotiation parties**”, for part 17, division 4, see section 658(1).

“**consultation period**” for—

- (a) part 13—see section 435(1); or
- (b) part 15, division 2—see section 490(1); or
- (c) part 16, division 2—see section 546(1).

“**consultation period advice day**”, for—

- (a) part 13—see section 435(2); or
- (b) part 15, division 2—see section 490(2); or
- (c) part 16, division 2—see section 546(2).

“**consultation start day**” for—

- (a) part 16, division 2—see section 546(1)(a); or
- (b) part 16, division 2—see section 562(1)(a); or

“**contract conditions**”, for part 17, division 4, see section 675(1).

“**decision**”, for the native title provisions, see section 422.

“**environmental authority (exploration)**” means an environmental authority (exploration) under the Environmental Protection Act.

“**environmental authority (mineral development)**” means an environmental authority (mineral development) under the Environmental Protection Act.

“**environmental authority (mining claim)**” means an environmental authority (mining claim) under the Environmental Protection Act.

“**environmental authority (mining lease)**” means an environmental authority (mining lease) under the Environmental Protection Act.

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

“EPA administering authority”, for a mining tenement or an application, means the administering authority under the Environmental Protection Act for an environmental authority (mining activities) or an application for an environmental authority (mining activities) relating to the mining tenement or the application.

“hearing” includes a presentation before the tribunal of an interim nature, including, for example, a directions hearing.

“high impact exploration permit”, for part 15, see section 483.

“high impact mineral development licence”, for part 16, see section 539.

“improvement restoration”, for a mining tenement, see section 6C.

“land” for—

- (a) the native title provisions generally—see section 423(4); and
- (b) part 17, division 4—see section 651.

“last objection day” for—

- (a) an application for a mining claim—see section 64A(2)(a); or
- (b) an application for a mining lease—see section 252A(2)(a).

“low impact activity” for—

- (a) part 15—see section 482; or
- (b) part 16—see section 538.

“low impact exploration permit”, for part 15, see section 481.

“low impact mineral development licence”, for part 16, see section 537.

“low impact prospecting permit”, for part 13, see section 430.

“mining tenement” see section 422.

“Minister’s decision”, for part 17, division 4, see section 684(2).

“native title issues decision”, for part 17, division 4, see section 669(1).

“native title notification party”, for the native title provisions, see section 422.

“negotiated agreement”, for part 17, division 4, see section 659(1).

“non-exclusive land”, for the native title provisions, see section 422.

“notification day (native title issues)”, for part 17, division 4, see section 653(2).

“pre-existing improvements”, for a mining tenement, means all improvements on, or attached to, the land the subject of the tenement immediately before the application for the tenement was lodged.

Examples of an ‘improvement’—

1. A bridge, building, fence, stock yard or other structure.
2. Equipment, machinery or plant.

“registered indigenous land use agreement under the Commonwealth Native Title Act” means an indigenous land use agreement registered on the Register of Indigenous Land Use Agreements under the Commonwealth Native Title Act.

“registered native title party” for—

- (a) part 13—see section 429; or
- (b) part 15, division 2—see section 485; or
- (c) part 16, division 2—see section 541; or
- (d) part 17, division 4—see section 655.

“registered native title rights and interests”, for the native title provisions, see section 422.

“relevant act”, for part 18, see section 706.

“relevant environmental condition”, for a mining tenement, means a condition of an environmental authority (mining activities) under the Environmental Protection Act relating to the tenement.

“relevant special interest publication”, for the native title provisions, see section 422.

“right to negotiate provisions”, for the native title provisions, see section 422.

“urgency notice”, for part 17, division 4, see section 683.’.

(4) Section 5, definition **“environment”**, ‘*Environmental Protection Act 1994*’—

omit, insert—

‘Environmental Protection Act’.

(5) Section 5, definition “**land**”, ‘includes—’—

omit, insert—

‘, other than for the native title provisions, includes—’

(6) Section 5, definitions, as amended under this section—

relocate to the schedule, as inserted by this Act.

Omission of s 6 (Meaning of “contaminated land”)

62. Section 6—

omit.

Insertion of new s 6C

63. After section 6B—

insert—

‘What is carrying out “improvement restoration”

‘**6C.(1)** To carry out “**improvement restoration**”, for a mining tenement, means to repair any damage caused by an activity under the tenement to all pre-existing improvements on, or attached to, the land subject to the tenement by—

- (a) restoring them to the same, or substantially the same, condition they were in before the damage happened; or
- (b) replacing them with another improvement in the condition mentioned in paragraph (a).

‘**(2)** For subsection (1), damage does not include damage to which a requirement to rehabilitate or remediate under the Environmental Protection Act applies.’.

Amendment of s 21 (Application for prospecting permit)

64. Section 21—

insert—

‘(2) The mining registrar must, within 5 business days after the application is lodged, give a copy of it to the EPA administering authority.

‘(3) Subsection (2) ceases to apply if the application is rejected under section 22.’.

Amendment of s 22 (Reasons for rejection of application to be given)

65. Section 22, from ‘shall’—

omit, insert—

‘must, within 5 business days after deciding to reject, give the applicant and the EPA administering authority a written notice stating the decision and the reasons for it.’.

Amendment of s 25 (Conditions of prospecting permit)

66.(1) Section 25, before subsection (1)—

insert—

‘(1A) It is a condition of each prospecting permit that the holder must carry out improvement restoration for the permit.’.

(2) Section 25—

insert—

‘(3A) Despite subsections (2) to (4), a condition must not be imposed, prescribed or varied if the condition, or the condition as varied, is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the prospecting permit.’.

Amendment of s 26 (Provision of security)

67. Section 26(1), from ‘any land’—

omit, insert—

‘pre-existing improvements for the permit.’.

Amendment of s 31 (Mining registrar to notify owners of occupied land of grant of parcel prospecting permit)

68. Section 31(1), ‘shall advise forthwith’—

omit, insert—

‘must, within 5 business days after the grant, advise’.

Amendment of s 37 (Surrender of prospecting permit)

69. Section 37—

insert—

‘(2) The mining registrar must, within 5 business days after the mining registrar is given the notice, give a copy of it to the EPA administering authority.’.

Omission of s 45 (Holder of prospecting permit to rehabilitate land)

70. Section 45—

omit.

Amendment of s 47 (Staying on occupied land)

71. Section 47(8)—

omit.

Amendment of s 50 (Entitlements under mining claim)

72. Section 50(2)—

omit, insert—

‘(2) During the currency of the mining claim, the rights of the holder relate, and are taken to have always related, to the whole of the land comprised in the claim.’.

Amendment of s 61 (Application for grant of mining claim)

73.(1) Section 61(1)(j)(iv), from ‘proposed mining program’—
omit, insert—

‘activities to be conducted on the mining claim.’.

(2) Section 61(2), ‘a mining program referred to in subsection (1)(j)(iv) which’—

omit, insert—

‘the outline if it’.

(3) Section 61—

insert—

‘**(3A)** The mining registrar must, within 5 business days after the application is lodged, give a copy of it to the EPA administering authority.

‘**(3B)** Subsection (4) ceases to apply if the application is rejected under this section or section 73.¹⁵⁰’.

Amendment of s 64 (Certificate of application etc.)

74.(1) Section 64(2)(c)—

omit.

(2) Section 64(4) to (8)—

omit, insert—

‘**(4)** The applicant for the proposed mining claim must, within the later of the following periods to end, give each owner of relevant land, a copy of the certificate and the application for the mining claim—

- (a) 7 days after the signing of the certificate;
- (b) if the mining registrar at any time decides a longer period—the longer period.

¹⁵⁰ Section 73 (Rejection of application for grant of mining claim for noncompliance)

‘(5) In this section—

“**relevant land**” means the land the subject of the proposed mining claim or any other land necessary for access to that land.’

Insertion of new ss 64A–64D

75. After section 64—

insert—

‘Issue of certificate of public notice

‘**64A.(1)** This section applies only if—

- (a) a certificate of application for an application for a mining claim has been endorsed under section 64(2); and
- (b) the draft environmental authority for the application for the relevant environmental authority (mining claim) has been given to the mining registrar under the Environmental Protection Act, section 34FQ; and
- (c) if the proposed mining claim is a mining claim to which, under section 462, part 17, division 4, applies—
 - (i) at least 4 months have passed since the giving of the notice required under section 652; or
 - (ii) a negotiated agreement under part 17, division 4 has been reached.¹⁵¹

‘(2) The mining registrar must, within 5 business days—

- (a) fix the last day (the “**last objection day**”) for lodging objections to the application; and
- (b) give the applicant for the mining claim a certificate of public notice in the approved form; and
- (c) give the EPA administering authority a copy of the certificate.

¹⁵¹ Environmental Protection Act, section 34FQ (Obligation to prepare draft environmental authority)
Sections 462 (Application of div 4) and 652 (Requirement to notify)
Part 17, division 4 (Mining leases)

‘(3) The last objection day must be at least 28 days after the certificate is given.

‘(4) The certificate must state the following—

- (a) the number of the proposed mining claim;
- (b) the day and time the application for the mining claim was lodged;
- (c) the last objection day;
- (d) where the application or any additional documents given to the mining registrar about the application may be inspected.

‘(5) The mining registrar must, from the giving of the certificate to the applicant until the end of the last objection day, post and keep posted at the registrar’s office a copy of the certificate.

‘Applicant’s obligations for certificate of public notice

‘64B.(1) The applicant for a proposed mining claim must, within the later of the following periods to end, take the actions mentioned in subsection (2)—

- (a) 7 days after the certificate is given to the applicant;
- (b) if the mining registrar at any time decides a longer period—the longer period.

‘(2) For subsection (1), the actions are—

- (a) post a copy of the certificate of public notice on the datum post of land the subject of the proposed mining claim (“**relevant land**”); and
- (b) durably engrave or mark the number of the proposed mining claim on the datum post; and
- (c) give a copy of the certificate, the application for the mining claim and any additional document about the application given by the applicant to the mining registrar to—
 - (i) each owner of relevant land or any other land necessary for access to relevant land; and
 - (ii) the relevant local government.

‘(3) The applicant must ensure the copy of the certificate posted on the datum post remains so posted until the end of the last objection day for the application.

‘Declaration of compliance with obligations

‘64C.(1) The applicant for a proposed mining claim must, within the later of the following periods to end, give the mining registrar a statutory declaration as to the applicant’s compliance with section 64B—

- (a) 7 days after the last objection day for the application for the mining claim;
- (b) if the mining registrar at any time decides a longer period—the longer period.

‘(2) Until the declaration is given—

- (a) the mining registrar must not grant the mining claim; and
- (b) the tribunal may refuse to hear any matter about the application.

‘Continuing obligation to notify

‘64D.(1) This section applies for an application for a mining claim, if after the last objection day but before the hearing day for the application, the applicant gives the mining registrar an additional document about the application.

‘(2) The applicant must give a copy of the document to each person mentioned in subsection 64B(2)(c).’.

Amendment of s 72 (Mining registrar to fix hearing date)

76.(1) Section 72(1), ‘shall, immediately’—

omit, insert—

‘must, within 5 business days’.

(2) Section 72(2), ‘shall notify’—

omit, insert—

‘must, within the 5 business days, give written notice to’.

Amendment of s 73 (Rejection of application for grant of mining claim for noncompliance)

77. Section 73—

insert—

‘(2) The mining registrar must, within 5 business days after deciding to reject, give the applicant and the EPA administering authority written notice of the decision and the reasons for it.’.

Amendment of s 74 (Grant of mining claim to which no objection is lodged)

78.(1) Section 74(2)—

insert—

‘(c) an environmental authority (mining claim) for all activities authorised by the proposed mining claim has been issued.’.

(2) Section 74—

insert—

‘**(2A)** The mining registrar must, within 5 business days after the grant, give the holder of the mining claim and the EPA administering authority written notice of the grant.’.

(3) Section 74(3) and (4), ‘applicant’—

omit, insert—

‘holder’.

(4) Section 74(4), after ‘notice’—

insert—

‘by the holder’.

Amendment of s 75 (Mining registrar may refer application for grant of mining claim to tribunal)

79. Section 75(2)—

omit, insert—

‘(2) The mining registrar must, within 5 business days after setting the date, give the applicant and the EPA administering authority written notice of the referral and the date.’.

Amendment of s 76 (Reference of application to tribunal if consent of reserve’s owner is not given)

80. Section 76(2)—

omit, insert—

‘(2) The mining registrar must, within 5 business days after fixing the day, give the applicant, the EPA administering authority and the owner of the reserve written notice of the day.’.

Amendment of s 80 (Grant of mining claim at instruction of tribunal or with consent of Governor in Council)

81.(1) Section 80(1), ‘and issue’—

omit.

(2) Section 80—

insert—

‘**(1A)** The mining registrar must, within 5 business days after the grant, give the holder of the mining claim and the EPA administering authority written notice of the grant.’.

(3) Section 80(2), ‘applicant for the grant’—

omit, insert—

‘holder’.

(4) Section 80(3), ‘applicant’—

omit, insert—

‘holder’.

(5) Section 80(3), after ‘notice’—

insert—

‘by the holder’.

Amendment of s 81 (Conditions of mining claim)

82.(1) Section 81(1)(e) and (f)—

omit, insert—

‘(e) a condition that the holder must carry out improvement restoration for the mining claim;’.

(2) Section 81—

insert—

‘(2A) Despite subsections (1) and (2), a condition must not be, determined, imposed or prescribed if it is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the mining claim.’.

(5) Section 81(5)—

omit.

Amendment of s 82 (Variation of conditions of mining claim)

83.(1) Section 82(2)—

omit, insert—

‘(2) However, the mining registrar must not vary a condition of a mining claim if—

- (a) the condition was decided or recommended by the tribunal under the native title provisions; or
- (b) the condition as varied is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the mining claim.’.

(2) Section 82—

insert—

‘(5) The mining registrar must, within 5 business days after a variation under this section, give the EPA administering authority written notice of the variation.’.

Amendment of s 83 (Provision of security)

84.(1) Section 83(1), ‘matters outlined in section 61(1)(j)(iv)’—

omit, insert—

‘outline under section 61(1)(j)(iv)’.

(2) Section 83(1)(c), from ‘any land’—

omit, insert—

‘pre-existing improvements for the mining claim; and’.

Amendment of s 89 (Reasons for rejection of application for grant of mining claim)

85. Section 89, from ‘shall’—

omit, insert—

‘must, within 5 business days after deciding to reject, give the applicant and the EPA administering authority a written notice stating the decision and the reasons for it.’.

Amendment of s 93 (Renewal of mining claim)

86. Section 93—

insert—

‘(3A) The mining registrar must give the EPA administering authority a copy of the application within 5 business days after the later of the following—

- (a) the day the application is made;
- (b) when the mining registrar is satisfied under subsection (3).'

Amendment of s 94 (Reasons for rejection of application for renewal of mining claim)

87. Section 94, 'shall'—

omit, insert—

'must, within 5 business days after deciding to reject,'.

Amendment of s 96 (Assignment etc. of mining claim)

88. Section 96, words before subsection (2)—

omit, insert—

'Assignment or mortgage of mining claim

'96.(1) A mining claim, or an interest in a mining claim, may be assigned or mortgaged only if—

- (a) the mining registrar has, under this section, approved the assignment or mortgage; and
- (b) the assignment or mortgage is made in the approved form and lodged with the mining registrar; and
- (c) the lodgment is accompanied by the fee prescribed under a regulation.

'(1A) The mining registrar must, within 5 business days after an assignment is lodged, give a copy of it to the EPA administering authority.'

Amendment of s 105 (Mining other minerals)

89. Section 105—

insert—

'(6) The mining registrar must, within 5 business days after approving an

application under this section, give the EPA administering authority written notice of the approval.’.

Amendment of s 106 (Contravention by holder of mining claim)

90. Section 106—

insert—

‘**(6)** The mining registrar must, within 5 business days after the cancellation takes effect, give written notice of it to the EPA administering authority.’.

Amendment of s 107 (Surrender of mining claim)

91.(1) Section 107(1)(c)—

omit.

(2) Section 107—

insert—

‘**(1A)** The mining registrar must, within 5 business days after a notice of surrender is lodged, give a copy of it to the EPA administering authority.’.

(3) Section 107(9), from ‘a surrender’—

omit, insert—

‘the surrender only if the mining registrar is satisfied—

- (a) the holder has complied with the condition to carry out improvement restoration for the mining claim; and
- (b) the relevant environmental authority (mining claim) has been cancelled or surrendered under the Environmental Protection Act.’.

(4) Section 107(10), ‘satisfactorily rehabilitated land’—

omit, insert—

‘complied with the condition’.

(5) Section 107(10), ‘rehabilitating the land’—

omit, insert—

‘carrying out improvement restoration for the mining claim’.

Amendment of s 108 (Abandonment of application for mining claim)

92. Section 108—

insert—

‘(4) The mining registrar must, within 5 business days after the abandonment, give written notice of it to the EPA administering authority.’.

Amendment of s 109 (Rehabilitation of land covered by mining claim)

93.(1) Section 109, words before subsection (3)—

omit, insert—

‘Improvement restoration for mining claim

‘**109.(1)** This section applies on the termination of a mining claim, other than—

- (a) by surrender under section 107; or
- (b) for the granting of a new mining claim or mining lease over the land the subject of the terminated mining claim.’.

(2) Section 109(3), ‘rehabilitated land’—

omit, insert—

‘complied with the condition to carry out improvement restoration for the mining claim’.

(3) Section 109(3), ‘rehabilitating the land’—

omit, insert—

‘carrying out the restoration’.

(4) Section 109(6)—

omit.

Amendment of s 116 (Appeals about mining claim)

94. Section 116(2)(c)—

omit, insert—

‘(c) a decision about carrying out improvement restoration for the mining claim;’.

Amendment of s 123 (Property remaining on former mining claim may be sold etc.)

95. Section 123(3)—

insert—

‘(ba) any costs or expenses under the Environmental Protection Act, section 118(1)¹⁵² for a relevant environmental authority (mining claim);

(ca) any other amounts owing to the State under the Environmental Protection Act for a relevant environmental authority (mining claim);’.

Amendment of s 129 (Entitlements under exploration permit)

96. Section 129(16)—

omit, insert—

‘(16) During the term of an exploration permit, the rights of the holder of the permit relate, and are taken to have always related, to the whole of the land to which the permit applies.’.

Amendment of s 133 (Application for exploration permit)

97. Section 133—

insert—

‘(2) The chief executive must, within the following period, give the EPA

¹⁵² Environmental Protection Act, section 118 (Claims on financial assurances)

administering authority a copy of the application—

- (a) if section 134A(2) applies—10 business days after the Minister decides the priority of the application under that section;
- (b) otherwise—5 business days after the chief executive receives the application.

‘(3) Subsection (2) ceases to apply if—

- (a) the application is rejected under section 137; or
- (b) the Minister decides, under section 134A(2), another application takes priority over the application.’.

Amendment of s 137 (Grant of exploration permit)

98.(1) Section 137(1)(a), after ‘complied with’—

insert—

‘for an application for an exploration permit’.

(2) Section 137—

insert—

‘(6) The chief executive must, within 5 business days after making a grant or refusal under this section, give the EPA administering authority written notice of the grant or refusal.’.

Amendment of s 139 (Periodic reduction in land covered by exploration permit for mineral other than coal)

99. Section 139—

insert—

‘(9) The chief executive must, within 5 business days after a reduction under this section takes effect, give the EPA administering authority written notice of the reduction.’.

Amendment of s 140 (Periodic reduction in land covered by exploration permit for coal)

100. Section 140—

insert—

‘(4) The chief executive must, within 5 business days after a reduction under this section takes effect, give the EPA administering authority written notice of the reduction.’.

Amendment of s 141 (Conditions of exploration permit)

101.(1) Section 141(1)(b) and (c)—

omit, insert—

‘(b) a condition that the holder must carry out improvement restoration for the exploration permit; and’.

(2) Section 141(1)(g)(iii)—

omit.

(3) Section 141—

insert—

‘**(2A)** The chief executive must, within 5 business days after the Minister makes a variation under subsection (2), give the EPA administering authority written notice of the variation.’.

(4) Section 141(4)—

omit.

(5) Section 141(5), ‘of conduct or practice’—

omit.

(6) Section 141—

insert—

‘**(6)** Despite subsections (1), (2) and (5), a condition must not be determined, imposed, prescribed or varied if the condition, or the condition as varied, is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the exploration permit.’.

Omission of ss 142 and 143

102. Sections 142 and 143—

omit.

Amendment of s 144 (Provision of security)

103.(1) Section 144(1)(c), from ‘any land’—

omit, insert—

‘pre-existing improvements for the exploration permit; and’.

(2) Section 144(12)—

omit.

Amendment of s 147 (Renewal of exploration permit)

104. Section 147—

insert—

‘**(1A)** The chief executive must, within 5 business days after receiving the application, give a copy of it to the EPA administering authority.

‘**(1B)** Subsection (2) ceases to apply if the Minister decides not to renew the exploration permit.’.

Amendment of s 151 (Assignment of exploration permit)

105. Section 151—

insert—

‘**(2A)** The chief executive must, within 5 business days after an application under subsection (1) is lodged, give a copy of it to the EPA administering authority.’.

Amendment of s 159 (Abandonment of application for exploration permit)

106. Section 159—

insert—

‘(4) The chief executive must, within 5 business days after the abandonment, give written notice of it to the EPA administering authority.’.

Amendment of s 160 (Contravention by holder of exploration permit)

107. Section 160—

insert—

‘(4A) The chief executive must, within 5 business days after the cancellation, give written notice of it to the EPA administering authority.’.

Amendment of s 161 (Surrender of exploration permit)

108.(1) Section 161(2)—

omit, insert—

‘(2) The chief executive must, within 5 business days after a notice of surrender is lodged, give a copy of it to the EPA administering authority.’.

(2) Section 161(5)—

omit, insert—

‘(5) The Minister may accept a surrender of an exploration permit only if the Minister is satisfied—

- (a) the holder has complied with the condition to carry out improvement restoration for the permit; and
- (b) the relevant environmental authority (exploration) has been cancelled or surrendered under the Environmental Protection Act.’.

(3) Section 161(6), ‘satisfactorily rehabilitated land’—

omit, insert—

‘complied with the condition’.

(4) Section 161(6), ‘rehabilitating the land’—

omit, insert—

‘carrying out improvement restoration for the exploration permit’.

Omission of s 165 (Holder of exploration permit to rehabilitate land)

109. Section 165—

omit.

Amendment of s 166 (Rehabilitation of land covered by exploration permits)

110.(1) Section 166, words before subsection (3)—

omit, insert—

‘Improvement restoration for exploration permit

‘166.(1) This section applies on the termination of an exploration permit, other than—

(a) by surrender under section 161; or

(b) for the granting of a new exploration permit, a mineral development licence or a mining lease over the land the subject of the terminated permit.’.

(2) Section 166(3), ‘rehabilitated land’—

omit, insert—

‘complied with the condition to carry out improvement restoration for the exploration permit’.

(3) Section 166(3), ‘rehabilitating the land’—

omit, insert—

‘carrying out the restoration’.

(4) Section 166(6)—

omit.

Amendment of s 181 (Obligations and entitlements under mineral development licence)

111. Section 181(19)—

omit, insert—

‘(19) During the currency of a mineral development licence, the rights of the holder of the licence relate, and are taken to have always related, to the whole of the land comprised in the licence.’

Amendment of s 183 (Application for mineral development licence)

112.(1) Section 183(m)—

omit.

(2) Section 183—

insert—

‘(2) The mining registrar must, within the following period after the application is lodged, give a copy of it to the EPA administering authority—

- (a) if section 185 applies—10 business days;
- (b) otherwise—5 business days.

‘(3) Subsection (2) ceases to apply if—

- (a) the application is rejected under section 186; or
- (b) the Minister decides, under section 185, another application takes priority over the application.’

Amendment of s 186 (Minister may grant or reject application for mineral development licence)

113. Section 186—

insert—

‘(7) The chief executive must, within 5 business days after making a grant or rejection under this section, give the EPA administering authority written notice of the grant or rejection.’

Amendment of s 189 (Abandonment of application for mineral development licence)

114. Section 189—

insert—

‘(2A) The mining registrar must, within 5 business days after the abandonment, give the EPA administering authority written notice of the abandonment.’.

Amendment of s 190 (Provision of security)

115. Section 190(1)(c), from ‘any land’—

omit, insert—

‘pre-existing improvements for the licence; and’.

Amendment of s 194 (Conditions of mineral development licence)

116.(1) Section 194(1)(b) and (c)—

omit, insert—

‘(b) a condition that the holder must carry out improvement restoration for the mineral development licence; and’.

(2) Section 194(1)(g)(iii)—

omit.

(3) Section 194—

insert—

‘(2A) The chief executive must, within 5 business days after the Minister makes a variation under subsection (2), give the EPA administering authority written notice of the variation.’.

(4) Section 194(4)—

omit.

(5) Section 194(5), ‘of conduct or practice’—

omit.

(6) Section 194—

insert—

‘(5A) Despite subsections (1), (2) and (5), a condition must not be determined, imposed, prescribed or varied if the condition, or the condition as varied, is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the mineral development licence.’.

Omission of ss 195 and 196

117. Sections 195 and 196—

omit.

Amendment of s 197 (Renewal of mineral development licence)

118. Section 197—

insert—

‘(3A) The chief executive must, within 5 business days after receiving the application, give a copy of it to the EPA administering authority.

‘(3B) Subsection (4) ceases to apply if the Minister decides not to renew the mineral development licence.’.

Amendment of s 198 (Assignment etc. of mineral development licence)

119. Section 198, words before subsection (2)—

omit, insert—

‘Assignment or mortgage of mineral development licence

‘198.(1) A mineral development licence, or an interest in a mineral development licence, may be assigned or mortgaged only if—

- (a) the Minister has, under this section, approved the assignment or mortgage; and
- (b) the assignment or mortgage is made in the approved form lodged with the chief executive; and

(c) the lodgment is accompanied by the fee prescribed under a regulation.

‘(1A) The chief executive must, within 5 business days after an assignment is lodged, give a copy of it to the EPA administering authority.’.

Amendment of s 208 (Adding other minerals to licence)

120. Section 208—

insert—

‘(7) The mining registrar must, within 5 business days after approving an application under this section, give the EPA administering authority written notice of the approval.’.

Amendment of s 209 (Contravention by holder of mineral development licence)

121. Section 209—

insert—

‘(4A) The chief executive must, within 5 business days after the cancellation, give written notice of it to the EPA administering authority.’.

Amendment of s 210 (Surrender of mineral development licence)

122.(1) Section 210—

insert—

‘(1A) The chief executive must, within 5 business days after a notice of surrender is lodged, give a copy of it to the EPA administering authority.’.

(2) Section 210(2)(c)—

omit.

(3) Section 210(4)—

omit, insert—

‘(4) However, the Minister may give the consent only if the Minister is

satisfied—

- (a) the holder has complied with the condition to carry out improvement restoration for the mineral development licence; and
- (b) the relevant environmental authority (mineral development) has been cancelled or surrendered under the Environmental Protection Act.’.

(4) Section 210(5), ‘satisfactorily rehabilitated land’—

omit, insert—

‘complied with the condition’.

(5) Section 210(5), ‘rehabilitating it’—

omit, insert—

‘carrying out improvement restoration for the mineral development licence’.

Omission of s 213 (Holder of mineral development licence to rehabilitate land)

123. Section 213—

omit.

Amendment of s 214 (Rehabilitation of land covered by mineral development licence)

124.(1) Section 214, words before subsection (3)—

omit, insert—

‘Improvement restoration for mineral development licence

‘214.(1) This section applies on the termination of a mineral development licence, other than—

- (a) by surrender under section 210; or
- (b) for the granting of a new mineral development licence or mining lease over the land the subject of the terminated licence.’.

(2) Section 214(3), ‘rehabilitated land’—

omit, insert—

‘complied with the condition to carry out improvement restoration for the mineral development licence’.

(3) Section 214(3), ‘rehabilitating the land’—

omit, insert—

‘carrying out the restoration’.

(4) Section 214(6)—

omit.

Amendment of s 230 (Plant remaining on former mineral development licence may be sold etc.)

125. Section 230(3)—

insert—

‘(ba) any costs or expenses under the Environmental Protection Act, section 118(1)¹⁵³ for a relevant environmental authority (mineral development);

(ca) any other amounts owing to the State under the Environmental Protection Act for a relevant environmental authority (mineral development);’.

Amendment of s 234 (Governor in Council may grant mining lease)

126. Section 234—

insert—

‘(3) The mining registrar must, within 5 business days after receiving notice of the grant of a mining lease, give the EPA administering authority written notice of the grant.’.

¹⁵³ Environmental Protection Act, section 118 (Claims on financial assurances)

Amendment of s 235 (Entitlements of holder of mining lease)

127.(1) Section 235(1), after ‘purpose’—

insert—

‘or right’.

(2) Section 235—

‘**(1A)** During the currency of the mining lease, the rights of the holder relate, and are taken to have always related, to the whole of the land and surface area mentioned in subsection (1).’.

Amendment of s 236 (Entitlement to use sand, gravel and rock)

128. Section 236(2), after ‘Act’—

insert—

‘, other than the Environmental Protection Act,’.

Amendment of s 237 (Drilling and other activities on land not included in surface area)

129.(1) Section 237(1), ‘apply in writing’—

omit, insert—

‘, in the approved form, apply’.

(2) Section 237(2)(b)(iii)—

omit.

(3) Section 237—

insert—

‘**(2A)** The mining registrar must, within 5 business days after the application is lodged, give a copy of it to the EPA administering authority.

‘**(2B)** Subsection (2) ceases to apply if the Minister decides to refuse the application.’.

(4) Section 237(4), ‘of conduct or practice’—

omit.

(5) Section 237—

insert—

‘(7) If an approval is given—

- (a) the mining lease must be amended to give effect to the approval and the conditions stated in it; and
- (b) particulars of the approval must be recorded in the appropriate register and endorsed on the relevant instrument of mining lease.’.

Amendment of s 245 (Application for grant of mining lease)

130.(1) Section 245(1)(p)—

omit.

(2) Section 245(4) to (6)—

omit, insert—

‘(4) The mining registrar must, within 5 business days after the application is lodged, give a copy of it to the EPA administering authority.

‘(5) Subsection (4) ceases to apply if the application is rejected under this section or section 250.’.

Amendment of s 250 (Rejection of application by mining registrar)

131. Section 250—

insert—

‘(8) The mining registrar must give written notice of the following events to the EPA administering authority within 5 business days after the event happens—

- (a) a rejection by the mining registrar under this section;
- (b) an appeal under this section is finally decided or is otherwise ended.’.

Amendment of s 252 (Certificate of application etc.)

132.(1) Section 252(2)(c)—

omit.

(2) Section 252(4) to (11)—

omit, insert—

‘**(4)** The applicant for the proposed mining lease must, within the relevant period, give each owner of the land the subject of the proposed mining lease or any other land necessary for access to that land, a copy of—

- (a) the certificate; and
- (b) the application for the mining lease, other than any part of it that states the applicant’s financial and technical resources.

‘**(5)** The mining registrar may, by written notice given to the applicant, decide a way for the applicant to give the documents mentioned in subsection (4) by publishing the documents, or a notice about the documents, in a stated way.

‘**(6)** If the applicant publishes the documents or a notice about the documents in the stated way, the applicant is taken to have complied with subsection (4).

‘**(7)** In this section—

“relevant period” means the later of the following periods to end—

- (a) 7 days after the signing of the certificate;
- (b) if the mining registrar at any time decides a longer period—the longer period.’.

Insertion of new ss 252A–252D

133. After section 252—

insert—

‘Issue of certificate of public notice

‘**252A.(1)** This section applies only if—

- (a) a certificate of application for an application for a mining lease has

been endorsed under section 252(2); and

- (b) the draft environmental authority for the application for the relevant environmental authority (mining lease) has been given to the mining registrar under the Environmental Protection Act, section 34GX; and
- (c) if the proposed mining lease is a mining lease to which part 17, division 4, applies—
 - (i) at least 4 months have passed since the giving of the notice required under section 652; or
 - (ii) a negotiated agreement under part 17, division 4 has been reached.¹⁵⁴

‘(2) The mining registrar must, within 5 business days—

- (a) fix the last day (the “**last objection day**”) for lodging objections to the application; and
- (b) give the applicant for the mining lease a certificate of public notice in the approved form; and
- (c) give the EPA administering authority a copy of the certificate.

‘(3) The last objection day must be at least 28 days after the certificate is given.

‘(4) The certificate must state the following—

- (a) the number of the proposed mining lease;
- (b) the day and time the application for the mining lease was lodged;
- (c) the last objection day;
- (d) where the application or any additional documents given to the mining registrar about the application may be inspected.

‘(5) The mining registrar must, from the giving of the certificate to the

¹⁵⁴ Environmental Protection Act, sections 34GX (Obligation to prepare draft environmental authority) and 34FQ (Obligation to prepare draft environmental authority)
Sections 462 (Application of div 4) and 652 (Requirement to notify)
Part 17, division 4 (Mining leases)

applicant until the end of the last objection day, post and keep posted at the registrar's office a copy of the certificate.

'Applicant's obligations for certificate of public notice

'252B.(1) The applicant for a proposed mining lease must do the following within the notice period—

- (a) post a copy of the certificate of public notice on the datum post of land the subject of the proposed mining lease ("**relevant land**");
- (b) durably engrave or mark the number of the proposed mining lease on the datum post;
- (c) give a copy of the certificate and the application for the mining lease to—
 - (i) each owner of relevant land or any other land necessary for access to relevant land; and
 - (ii) each holder, or applicant for, an exploration permit or mineral development licence over the land for a mineral other than a mineral to which the proposed mining lease relates; and
 - (iii) the relevant local government.

'(2) For subsection (1)(c), the application for the mining lease—

- (a) does not include any part of the application stating the applicant's financial and technical resources; and
- (b) includes any additional document about the application given by the applicant to the mining registrar.

'(3) The applicant must ensure the copy of the certificate posted on the datum post remains so posted until the end of the last objection day for the application.

'(4) The applicant must, in an approved newspaper circulating generally in the area of the relevant land, publish—

- (a) a copy of the certificate; or
- (b) if a map or sketch plan has been approved for the publication—

- (i) a notice in the approved form about the certificate; and
- (ii) the map or sketch plan.

‘(5) The publication must take place—

- (a) at least 21 days before the last objection day; or
- (b) at an approved shorter period before the last objection day.

‘(6) Despite subsections (1) to (5), the mining registrar may decide an additional or substituted way for the giving or publishing of the certificate under subsection (1)(c), (4) or (5).

‘(7) Written notice of the decision must be given to the applicant no later than the giving of the certificate to the applicant.

‘(8) If, in the period from when subsection (1)(c) is complied with and the end of the last objection day, the applicant gives the mining registrar an additional document about the application, the applicant must give a copy of the document to each person mentioned in subsection (1)(c).

‘(9) In this section—

“**approved**” means approved by the mining registrar.

“**notice period**” means the later of the following periods to end—

- (a) 7 days after the certificate is given to the applicant;
- (b) if the mining registrar at any time decides a longer period—the longer period.

‘Declaration of compliance with obligations

‘**252C.(1)** The applicant for a proposed mining lease must, within the later of the following periods to end, give the mining registrar a statutory declaration as to the applicant’s compliance with section 252B—

- (a) 7 days after the last objection day for the application for the mining lease;
- (b) if the mining registrar at any time decides a longer period—the longer period.

‘(2) Until the declaration is given—

- (a) the tribunal must not make a final recommendation to the Minister about the application for the mining lease, other than a recommendation to reject the application; and
- (b) the tribunal may refuse to hear any matter about the application.

‘Continuing obligation to notify

‘252D.(1) This section applies for an application for a mining lease, if after the last objection day but before the hearing day for the application, the applicant gives the mining registrar an additional document about the application.

‘(2) The applicant must give a copy of the document to each person mentioned in subsection 252B(1)(c).’.

Amendment of s 253 (Reissue of certificate of application)

134.(1) Section 253, heading, ‘**application**’—

omit, insert—

‘public notice’.

(2) Section 253(1) and (2), ‘application’—

omit, insert—

‘public notice’.

Amendment of s 260 (Objection to application for grant of mining lease)

135. Section 260(1), words before ‘lodge’—

omit, insert—

‘260.(1) An entity may, on or before the last objection day for the application,’.

Omission of ss 261–264

136. Sections 261 to 264—

omit.

Amendment of s 265 (Mining registrar to fix hearing date)

137.(1) Section 265(1), ‘shall immediately’—

omit, insert—

‘must, within 5 business days’.

(2) Section 265(2), ‘shall notify’—

omit, insert—

‘must, within the 5 business days, give written notice to’.

Amendment of s 267 (Minister may reject application at any time)

138. Section 267—

insert—

‘(2) The mining registrar must, within 5 business days after receiving notice of the rejection, give written notice of it to the EPA administering authority.’.

Amendment of s 268 (Hearing of application for grant of mining lease)

139.(1) Section 268(8)—

omit.

(2) Section 268—

insert—

‘(11) In this section—

“**application**” includes any additional document about the application given by the applicant to the mining registrar.’.

Omission of s 270A (Minister to approve environmental management overview strategy)

140. Section 270A—

omit.

Amendment of s 271 (Minister to consider recommendation made in respect of application for grant of mining lease)

141. Section 271(3)—

omit, insert—

‘**(3)** If the Minister wholly or partly rejects an application or, under subsection (1A)(c), gives a direction (the “**action**”)—

- (a) the Minister must promptly give the applicant a written notice stating the action and the reasons for it; and
- (b) the mining registrar must, within 5 business days after receiving notice of the action, give written notice of it to the EPA administering authority.’.

Amendment of s 272 (Minister may remit to tribunal for additional evidence)

142. Section 272(1), after ‘the applicant’—

insert—

‘, the EPA administering authority’.

Amendment of s 275 (Application for inclusion of surface of land in mining lease)

143.(1) Section 275(2)(b), words before ‘the number of’, second mention—

omit, insert—

- ‘(b) the certificate of application and the certificate of public notice must state, as the number of the proposed mining lease,’.

(2) Section 275—

insert—

(3) If the application is granted—

- (a) the mining lease must be amended to give effect to the approval and the conditions stated in it; and
- (b) particulars of the approval must be recorded in the appropriate register and endorsed on the relevant instrument of mining lease.’.

Amendment of s 276 (Conditions of mining lease)

144.(1) Section 276(1)(b) to (d)—

omit, insert—

‘(b) a condition that the holder must carry out improvement restoration for the mining lease; and’.

(2) Section 276(4), ‘of conduct or practice’—

omit.

(3) Section 276—

insert—

‘**(4A)** Despite subsections (1) to (4), a condition must not be determined, imposed or prescribed if it is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the mining lease.

‘**(4B)** Subsection (5) applies despite any recommendation under the *State Development and Public Works Organisation Act 1971*, section 29T.¹⁵⁵’.

Amendment of s 277 (Provision of security)

145.(1) Section 277(1)(c), from ‘land or improvements’—

omit, insert—

‘pre-existing improvements for the lease; and’.

¹⁵⁵ *State Development and Public Works Organisation Act 1971*, section 29T (Application of Coordinator-General’s report to issue of mining lease)

(2) Section 277(4)—

omit.

(3) Section 277(8), words before ‘this section’—

omit, insert—

‘(8) On the use under’.

Insertion of new ss 283A and 283B

146. After section 283—

insert—

‘Agreement to amend compensation

‘283A.(1) This section applies if—

- (a) compensation (the **“original compensation”**) has been agreed under section 279 or 280 for a mining lease; or
- (b) compensation (also the **“original compensation”**) has been determined under section 281 or 282 for a mining lease and there has, since the determination, been a material change in circumstances for the lease.

Example of a ‘material change in circumstances’—

A different mining method that changes the impact of mining operations under the lease.

‘(2) The mining lease holder and each owner in relation to the lease mentioned in section 279(1)(a) or 280(1) may, by signed writing, agree to amend the original compensation (the **“amendment agreement”**).

‘(3) However, the amendment agreement does not take effect until it is filed with the registrar.

‘(4) After the amendment agreement takes effect, the original compensation, as amended by the agreement, is for this Act, other than this section, taken to be the original compensation.

‘Review of compensation by tribunal

‘283B.(1) This section applies if—

- (a) compensation has been agreed under section 279 or 280 or determined under section 281 or 282 for a mining lease (the **“original compensation”**); and
- (b) there has, since the agreement or determination, been a material change in circumstances for the mining lease.

Example of a ‘material change in circumstances’—

A different mining method that changes the impact of mining operations under the lease.

‘(2) The mining lease holder or any owner in relation to the mining lease mentioned in section 279(1)(a) or 280(1) may apply to the tribunal for it to review the original compensation.

‘(3) Sections 281(3) to (7) and 282 apply, with necessary changes, to the review as if it were an application under section 281(1).

‘(4) The tribunal may, after conducting the review, decide to confirm the original compensation or amend it in a way the tribunal considers appropriate.

‘(5) However, before making the decision, the tribunal must have regard to—

- (a) the original compensation, other than any part of it that consists of an additional amount under section 281(4)(e); and
- (b) whether the applicant has attempted to mediate or negotiate an amendment agreement for the original compensation; and
- (c) any change in the matters mentioned in section 281(3) and (4) since the original compensation was agreed or determined.

‘(6) If the decision is to amend the original compensation, the original compensation, as amended under the decision, is for this Act, other than this section, taken to be the original compensation.’

Amendment of s 286 (Renewal of mining lease)

147.(1) Section 286(2)(b) and (c)—

omit.

(2) Section 286—

insert—

‘(4A) The mining registrar must give the EPA administering authority a copy of the application within 5 business days after the later of the following—

- (a) the day the application is made;
- (b) when the Minister is satisfied under subsection (3).’.

Replacement of s 287 (Reasons for rejection of application for renewal of mining lease)

148. Section 287—

omit, insert—

‘Notice of rejection of renewal application

‘287.(1) If the Minister decides to reject an application to renew a mining lease, the Minister must promptly give the applicant a written notice stating the decision and the reasons for it.

‘(2) The mining registrar must, within 5 business days after receiving notice of the decision, give written notice of it to the EPA administering authority.’.

Omission of ss 291–293

149. Sections 291 to 293—

omit.

Amendment of s 294 (Variation of conditions of mining lease)

150.(1) Section 294—

insert—

‘(1A) However, the Governor in Council must not vary a condition of a mining lease if the condition as varied is the same, or substantially the same, or inconsistent with, a relevant environmental condition for the lease.’

(2) Section 294—

insert—

‘(3A) The mining registrar must, within 5 business days after receiving notice of a variation under subsection (1), give the EPA administering authority written notice of the variation.’

Amendment of s 298 (Mining other minerals or use for other purposes)

151.(1) Section 298(9), from ‘purposes but’—

omit, insert—

‘purposes.¹⁵⁶’

(2) Section 298—

insert—

‘(12) The mining registrar must, within 5 business days after receiving notice of an approval under this section, give the EPA administering authority written notice of the approval.’

Amendment of s 299 (Consolidation of mining leases)

152.(1) Section 299(8), ‘251, 252, 254’—

omit, insert—

‘251 to 254’.

(2) Section 299(11)—

¹⁵⁶ See however the Environmental Protection Act, section 118ZZH (Environmental authority required for level 1 environmentally relevant activity) and chapter 2C, part 7 (Plan of operations for environmental authority (mining lease)).

omit, insert—

‘(11) The mining registrar must, within 5 business days after receiving notice of the grant under this section of a consolidated mining lease, give the EPA administering authority written notice of the grant.’.

Amendment of s 300 (Assignment etc. of mining lease or application therefor)

153. Section 300, words before subsection (2)—

omit, insert—

‘Assignment, mortgage or sublease of mining lease

‘**300.(1)** The following may be done only if the conditions under subsection (2) are complied with—

- (a) an assignment, mortgage or sublease of a mining lease;
- (b) an assignment or mortgage of an interest in a mining lease;
- (c) an assignment of an application for a mining lease, or an interest in an application for a mining lease.

‘(2) For subsection (1) the conditions are—

- (a) the mining registrar has, under this section, approved the assignment, mortgage or sublease; and
- (b) the assignment, mortgage or sublease is made in the approved form and lodged with the mining registrar; and
- (c) the lodgment is accompanied by the fee prescribed under a regulation.

‘(3) The mining registrar must, within 5 business days after an assignment is lodged, give the EPA administering authority a copy of the assignment.’.

Amendment of s 307 (Abandonment of application for the grant of a mining lease)

154. Section 307—

insert—

‘(5) The mining registrar must, within 5 business days after an abandonment or partial abandonment, give written notice of it to the EPA administering authority.’.

Amendment of s 308 (Contravention by holder of mining lease)

155. Section 308—

insert—

‘(6) The mining registrar must, within 5 business days after the cancellation takes effect, give the EPA administering authority written notice of the cancellation.’.

Amendment of s 309 (Surrender of mining lease)

156.(1) Section 309(2)(d) and (e)—

omit.

(2) Section 309—

insert—

‘(2A) The mining registrar must, within 5 business days after a notice of surrender is lodged, give a copy of it to the EPA administering authority.’.

(3) Section 309(3), from ‘rehabilitating the land’—

omit, insert—

‘carrying out improvement restoration for the mining lease.’.

(4) Section 309(5)—

omit, insert—

‘(5) However, the Minister may give the consent only if the Minister is satisfied—

- (a) the holder has complied with the condition to carry out improvement restoration for the mining lease; and
- (b) the relevant environmental authority (mining lease) has been

cancelled or surrendered under the Environmental Protection Act.’.

Amendment of s 314 (Property remaining on former mining lease may be sold)

157. Section 314(3)—

insert—

- ‘(ba) any costs or expenses under the Environmental Protection Act, section 118(1)¹⁵⁷ for a relevant environmental authority (mining lease);
- (ca) any other amounts owing to the State under the Environmental Protection Act for a relevant environmental authority (mining lease);’.

Amendment of s 315 (Approval of additional activities upon mining lease application)

158.(1) Section 315(1), after ‘under this Act.’—

insert—

‘(the “**existing mining tenement**”)’.

(2) Section 315(1), after ‘under a mining lease’—

insert—

‘(an “**additional activity**”)’.

(3) Section 315(2)—

omit, insert—

‘**(2)** The applicant may apply to the Minister for an approval (an “**additional activity approval**”) to enter and carry out an additional activity on land subject to existing mining tenement and the mining lease application.’.

¹⁵⁷ Environmental Protection Act, section 118 (Claims on financial assurances)

(4) Section 315—*insert—*

(4A) The mining registrar must, within 5 business days after an application for an additional activity approval is made, give a copy of it to the EPA administering authority.’.

(5) Section 315(5), ‘The Minister’s approval may be’—*omit, insert—*

‘The Minister may grant an additional activity approval’.

(6) Section 315(6)—*omit, insert—*

(6) However, the Minister may grant an additional activity approval only if—

- (a) the tribunal has made a recommendation under section 269 or 270 about the relevant mining lease application; and
- (b) compensation has, under section 279 or 281, been agreed or determined for the granting of the proposed mining lease; and
- (c) if the application relates to a reserve—the Minister has sought and considered the views of the reserve’s owner.’.

(7) Section 315(7), ‘upon an approval under subsection (1)’—*omit.***(8)** Section 315(9), ‘an approval under subsection (2)’—*omit, insert—*

‘an additional activity approval’.

(9) Section 315(11), ‘an approval under this section’—*omit, insert—*

‘an additional activity approval’.

Amendment of s 318 (Rehabilitation of land covered by mining lease)

159.(1) Section 318, words before subsection (3)—

omit, insert—

‘Improvement restoration for mining lease

‘318.(1) This section applies on the termination of a mining lease, other than—

- (a) by surrender under section 309;¹⁵⁸ or
- (b) for the granting of a new mining lease over the land the subject of the terminated mining lease.

‘(2) The Minister may, if not satisfied the holder of the terminated mining lease has not carried out improvement restoration for the mining lease, give the holder reasonable written directions about the restoration.’.

(2) Section 318(5)—

omit.

Amendment of s 319 (Effect on planning provisions)

160.(1) Section 319(1)—

omit, insert—

‘319.(1) The *Integrated Planning Act 1997* does not apply to the use of land if the use is authorised under this Act.’.

(2) Section 319(4) and (5), *‘Local Government (Planning and Environment) Act 1990’*—

omit, insert—

‘Integrated Planning Act 1997’.

¹⁵⁸ Section 309 (Surrender of mining lease)

Amendment of s 343 (Seizure of minerals produced by or vehicles, machinery etc. used in unauthorised mining)

161.(1) Section 343(2)—

insert—

‘(d) carry out any improvement restoration the mining registrar or officer considers appropriate for the land on which the mineral is or has been mined as if a mining tenement had been granted for the land.’.

(2) Section 343(9)—

insert—

‘(ba)thirdly, in payment of the cost of any improvement restoration that is, or is likely to be, carried out under subsection (2)(d);’.

(3) Section 343(9)(c), ‘thirdly’—

omit, insert—

‘fourthly’.

(4) Section 343(9)(c), after ‘relating to mining’—

insert—

‘or under the Environmental Protection Act’.

(5) Section 343(9)(d), ‘fourthly’—

omit, insert—

‘fifthly’.

Amendment of s 363 (Substantive jurisdiction)

162. Section 363(2)(f), after ‘determination’—

insert—

‘or review’.

Insertion of new s 391A

163. After section 391—

insert—

‘Restriction on decisions or recommendations about mining tenements

‘391A.(1) This section applies if, apart from this section, a person may—

- (a) decide to grant, assign, vary or renew a mining tenement; or
- (b) recommend that a mining tenement be granted, assigned, varied or renewed.

‘(2) However, this section does not apply to a decision or recommendation by the tribunal.

‘(3) The decision or recommendation to grant, vary or renew must not be done or made unless a relevant environmental authority has been issued.

‘(4) The decision or recommendation to assign must not be done or made unless the proposed assignee holds a relevant environmental authority.

‘(5) This section applies despite any other provision of this Act.

‘(6) In this section—

“relevant environmental authority” means an environmental authority under the Environmental Protection Act for all activities authorised, or to be authorised, under the mining tenement.’.

Amendment of s 416A (Approval of forms)

164. Section 416A—

insert—

‘(2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.’.

Amendment of s 417 (Regulations)

165.(1) Section 417, heading—

omit, insert—

‘Regulation-making power’.

(2) Section 417(2)(e) and (f)—

omit, insert—

- ‘(e) the making and content of statements under section 245(1)(o)(iii);
- (f) matters the mining registrar must consider in deciding whether or not to accept a statement under section 245(1)(o)(iii);’.

Amendment of s 669 (Referral of proposed mining lease to tribunal)

166.(1) Section 669(6)(a), ‘is not required to be completed under part 7 for the proposed mining lease’—

omit, insert—

‘for the proposed mining lease is not required to be prepared under another State Act or a Commonwealth Act’.

(2) Section 669(6)(b)(i), from ‘mining registrar’—

omit, insert—

‘environmental impact statement is publicly notified under the other State Act or the Commonwealth Act;’.

Insertion of new pt 19, div 3

167. Part 19—

insert—

***‘Division 3—Transitional provisions for Environmental Protection and
Other Legislation Amendment Act 2000***

‘Existing Act continues to apply for special agreement Acts

735.(1) The existing Act continues to apply for an activity, circumstance, or matter provided for under, or to which, a special agreement Act applies as if the amending Act had not been enacted.

‘(2) In this section—

“**amending Act**” means the *Environmental Protection and Other Legislation Amendment Act 2000*.

“**existing Act**” means this Act as it was in force immediately before the amending Act, section 6¹⁵⁹ commenced.

“**special agreement Act**” means any of the following Acts and any agreement or lease under or mentioned in the Acts—

- (a) *Alcan Queensland Pty. Limited Agreement Act 1965*;
- (b) *Aurukun Associates Agreement Act 1975*;
- (c) *Central Queensland Coal Associates Agreement Act 1968*;
- (d) *Central Queensland Coal Associates Agreement and Queensland Coal Trust Act 1984*;
- (e) *Central Queensland Coal Associates Agreement (Amendment) Act 1986*;
- (f) *Central Queensland Coal Associates Agreement Amendment Act 1989*;
- (g) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*;
- (h) *Greenvale Agreement Act Amendment Act 1974*;
- (i) *Greenvale Agreement Act Amendment Act 1975*;
- (j) *Mount Isa Mines Limited Agreement Act 1985*;
- (k) *Queensland Cement & Lime Company Limited Agreement Act 1977*;
- (l) *Queensland Nickel Agreement Act 1970*;
- (m) *Queensland Nickel Agreement Act 1988*;
- (n) *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*;
- (o) *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Act 1965*.

¹⁵⁹ Amending Act, section 6 (Insertion of new chs 2A–2D)

‘Amendment of EMOS after grant of particular mining leases and before amending Act

‘736.(1) This section applies to—

- (a) any mining lease granted or renewed after 30 April 1995 but before this section commences; or
- (b) a mining lease granted or renewed before 1 May 1995 if it has a condition requiring an environmental management overview statement (an “EMOS”) to be given to the department.

‘(2) An amendment or purported amendment of an EMOS for the mining lease is taken to have been validly made under this Act if, before the commencement, the amendment was accepted or approved, or purportedly accepted or approved, by the Minister, the department or an officer of the department.

‘(3) Subsection (2) applies—

- (a) whether or not the amendment or its acceptance or approval could lawfully have been done or made under this Act; and
- (b) despite any requirement under this Act relating to the variation of the conditions of the mining lease.

‘(4) A reference in the mining lease to an EMOS for the mining lease is taken to be, and is taken to have always been, a reference to the EMOS for the lease as amended from time to time by any amendment mentioned in subsection (2).

‘(5) This section expires the day after it commences.

‘(6) This section is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A¹⁶⁰ applies.’.

Insertion of schedule

168. After part 19—

insert—

¹⁶⁰ *Acts Interpretation Act 1954*, section 20A (Repeal does not end saving, transitional or validating effect etc.)

‘SCHEDULE**‘DICTIONARY**

section 5’.

**PART 5—AMENDMENT OF NATURE
CONSERVATION ACT 1992****Act amended in pt 5**

169. This part amends the *Nature Conservation Act 1992*.

Amendment of s 39B (Chief executive may require EIS)

170. Section 39B(2)—

omit, insert—

‘(2) The EIS process under the *Environmental Protection Act 1994* applies for the EIS as if the use or stated use were a project to which chapter 2A, part 1 of that Act applies.¹⁶¹’.

¹⁶¹ *Environmental Protection Act 1994*, chapter 2A, part 1 (EIS process). See section 34 (When EIS process applies) of that Act.

PART 6—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994

Act amended in pt 6

171. This part amends the *Transport Infrastructure Act 1994*.

Amendment of s 233 (Continuation of certain by-laws and provisions of Harbours Act)

172. Section 233(9), ‘2000’—

omit, insert—

‘2002’.

Amendment of s 236 (Continuation of certain provisions of Harbours Act requiring approval for certain matters)

173. Section 236(8), ‘2000’—

omit, insert—

‘2002’.

PART 7—MINOR AMENDMENTS OF ACTS

Acts amended in schedule

174. The schedule amends the Acts it mentions.

SCHEDULE**MINOR AMENDMENTS**

sections 3(2), 57(2), 60(2) and 174

ENVIRONMENTAL PROTECTION ACT 1994**1. Chapter 1, part 3, division 1, heading—***omit, insert—**‘Division 1—Dictionary’.***2. Chapter 1, part 3, division 2, heading—***omit, insert—**‘Division 2—Key concepts’.***3. Section 75, ‘auditor or investigator’—***omit, insert—**‘person who carried out the environmental evaluation’.***4. Section 76(2), after ‘it may’—***insert—**‘do 1 or more of the following’.***5. Section 76(2)(a), (c) and (d), ‘or’—***omit.*

SCHEDULE (continued)

6. Section 76(2)(b)—*omit, insert—*

‘(b) if the recipient is the holder of an environmental authority—amend the conditions of the environmental authority;’.

7. Section 76(6)—*insert—*

‘(e) state the review or appeal details.’.

8. Section 78(2) and (3)—*omit, insert—*

‘(2) The authority must, before the extension starts, give the applicant an information notice about the decision to make the extension.’.

9. Section 87(1), ‘all or any interested parties for the program’—*omit, insert—*

‘another person who has made a submission under section 85 about the program,’.

10. Section 91—*omit, insert—***‘Notice of refusal or conditions**

‘**91.(1)** This section applies if the administering authority decides to—

- (a) refuse to approve a draft environmental management program; or
- (b) give an approval for a draft environmental management program subject to conditions.

SCHEDULE (continued)

‘(2) The authority must give the person or public authority that submitted the program an information notice about the decision.’.

11. Section 92(2) and (3)—

omit, insert—

‘(2) The authority must, before the extension starts, give the applicant an information notice about the decision to make the extension.’.

12. Section 104(3)(a)(iii)—

omit, insert—

‘(iii) the review or appeal details; or’.

13. Section 105, ‘a certificate of approval’—

omit, insert—

‘an approval’.

14. Section 111(1)(d)—

omit, insert—

‘(d) must state the review or appeal details; and’.

15. Section 118C, definition “owner”—

omit.

16. Sections 118E(3) and 118F(3), after ‘given notice’—

insert—

‘under the subsection’.

SCHEDULE (continued)

17. Section 118H(5)(b)—*omit, insert—*

‘(b) the relevant local government.’

18. Section 118H(7), from ‘that the owner’—*omit, insert—*

‘the review or appeal details.’

19. Sections 118J(2)(b), 118R(3)(c) and (d)(i), 118Y(1)(b), 118ZE(1)(c), 118ZM(2)(b)(ii), 118ZU(4) and 118ZZA(2)(b)(ii) ‘the local government for the area in which the land is located’—*omit, insert—*

‘the relevant local government’.

20. Sections 118J(5) and 118Y(4), ‘under section 118D(2)’—*omit, insert—*

‘of the land’.

21. Sections 118K(3)(e), 118S(4)(e) and 118ZF(4)(e)—*omit, insert—*

‘(e) state the review or appeal details.’

22. Sections 118L(6)(b) and 118ZO((6)(b), after ‘the application—’—*omit, insert—*

‘the review or appeal details.’

SCHEDULE (continued)

23. Section 118R(4)(b), after ‘under subsection (2)(b) to (d)—’—*omit, insert—*

‘the review or appeal details.’.

24. Section 118V(2) and (3)—*omit, insert—*

‘(2) The authority must give an information notice about its decision to extend the time to—

(a) the recipient; and

(b) if the recipient is not the land’s owner—the owner.

‘(3) The notice must be given before the extension starts.’.

25. Section 118Y(5)(d), ‘remove and dispose’—*omit, insert—*

‘remove and treat or dispose’.

26. Sections 118Y(5)(f) and 134(3)(f)—*omit, insert—*

‘(f) state the review or appeal details; and’.

27. Section 118Z(5) from ‘written notice’—*omit, insert—*

‘the recipient an information notice about the decision.’.

28. Sections 118Z(6), 118ZV(2) and 118ZZE(3)—*omit.*

SCHEDULE (continued)

29. Section 118ZE(2)(b), from ‘that the land’s’—*omit, insert—*

‘the review or appeal details.’.

30. Section 118ZG(2) and (3)—*omit, insert—*

‘(2) The authority must give an information notice about its decision to extend the time to—

- (a) the person (the “**submitter**”) who submitted the report; and
- (b) if the submitter is not the land’s owner—the owner.

‘(3) The notice must be given before the extension starts.’.

31. Section 118ZM(5), ‘mentioned in section 118D(2)’—*omit, insert—*

‘of the land’.

32. Section 118ZN(3)(d)—*omit, insert—*

‘(d) the review or appeal details.’.

33. Section 118ZS—*insert—*

‘(3) If the authority decides to make a requirement under subsection (2)(a), it must give the person of whom the requirement is made an information notice about the decision.’.

SCHEDULE (continued)

34. Section 118ZU(3)(c)—*omit, insert—*

‘(c) state the review or appeal details.’.

35. Section 118ZV(1), ‘written notice’—*omit, insert—*

‘an information notice about the decision’.

36. Section 118ZW(2) and (3)—*omit, insert—*

‘(2) The authority must give an information notice about its decision to extend the time to—

- (a) the person (the “**submitter**”) who submitted the draft plan; and
- (b) if the submitter is not the land’s owner—the owner.

‘(3) The notice must be given before the extension starts.’.

37. Section 118ZZE(2), from ‘written notice’—*omit, insert—*

‘the owner of the land an information notice about the decision to erect the sign.’.

38. Section 118ZZF(5)(b) and (c)—*omit, insert—*

- ‘(b) if the decision is to grant the application but to impose conditions on the permit—give the applicant an information notice about the decision to impose the conditions; or

SCHEDULE (continued)

- (c) if the decision is to refuse the application—give the applicant an information notice about the decision.’.

39. Sections 128(1)(a), 129(3)(a) and 197, ‘an officer of the public service’—

omit, insert—

‘an appropriately qualified public service officer’.

40. Section 199(1)(b)(i), ‘officer of the public service’—

omit, insert—

‘public service officer’.

41. Section 199(2), after ‘of the power’—

insert—

‘to another appropriately qualified employee of the local government’.

42. Section 200—

relocate and renumber as section 201.

43. Section 201—

renumber as section 200.

44. Section 211(1)(b), ‘a local government’s decision under the *Local Government (Planning and Environment) Act 1990*’—

omit, insert—

‘the assessment manager’s decision under the Integrated Planning Act’.

SCHEDULE (continued)

- 45. Schedule 4, definition “assessment manager”, after ‘by’—**
insert—
‘section’.
- 46. Schedule 4, definition, “contaminated land register”,
‘section 213(1A)(b)’—**
omit, insert—
‘section 213(1)(e)(ii).’.
- 47. Schedule 4, definition “development offence”, ‘section 60ZF’—**
omit, insert—
‘section 118ZZQ’.
- 48. Schedule 4, definition, “dissatisfied person”, ‘200’—**
omit, insert—
‘201’.
- 49. Schedule 4, definition, “environmental management register”,
‘section 213(1A)(a)’—**
omit, insert—
‘section 213(1)(e)(i).’.
- 50. Schedule 4, definition, “original decision”, ‘201’—**
omit, insert—
‘200’.

SCHEDULE (continued)

INTEGRATED PLANNING ACT 1997**1. Section 2.2.17(4)(b), after ‘review;’—***insert—*

‘and’.

2. Sections 3.6.4 and 5.8.3, ‘Organization’—*omit, insert—*

‘Organisation’.

3. Section 2.6.8(a)(ii)—*renumber* as section 2.6.8(a)(iii).**4. Section 3.7.8(1)(a) and (b), ‘schedule 2’—***omit, insert—*

‘the schedule’.

5. Section 3.7.8(1)(c), ‘schedule 2’—*omit, insert—*

‘schedule’.

6. Section 5.7.5(3)(e)(v), after ‘approval;’*insert—*

‘and’

SCHEDULE (continued)

7. Section 6.1.50(2), ‘section 3.5(1A)’—*omit, insert—*

‘section 3.5(2A)’.

8. Schedule 3, section 7(2)(a), ‘and’—*omit.***9. Schedule 4, section 9(3)(e), ‘and’—***omit.***10. Schedule 8, items 4(c) and (d) and 15(c) and (d), ‘schedule 2’—***omit, insert—*

‘the schedule’.

11. Schedule 8, items 4(e) and 15(e), ‘schedule 2’—*omit, insert—*

‘schedule’.

12. Schedule 8, item 10(a), ‘Mount Isa Mines Agreement Act 1985’—*omit, insert—*

‘Mount Isa Mines Limited Agreement Act 1985’.

**13. Schedule 10, definition “negotiated decision notice”,
‘section 3.5.17(1)’—***omit, insert—*

‘section 3.5.17(2)’.

SCHEDULE (continued)

MINERAL RESOURCES ACT 1989**1. Section 4(1)(a), after ‘mining lease’—***insert—*‘(the “**mining tenement**”)’.**2. Section 4, ‘tenement’—***omit, insert—*

‘mining tenement’.

3. Sections 4(2) and (3) and 401A, ‘tenure’—*omit, insert—*

‘mining tenement’.

4. Sections 9(3), 10, 226(1), 338(1), 363(2)(c), 393(1) and 396 ‘prospecting permit, mining claim, exploration permit, mineral development licence or mining lease’—*omit, insert—*

‘mining tenement’.

5. Section 10A(3), from ‘96(10)’ to ‘300(11)’—*omit, insert—*

‘96(11), 125, 169, 198(10), 217, 231(6), 300(13)’.

6. Section 25(1A) to (6)—*renumber* as section 25(1) to (8).

SCHEDULE (continued)

7. Section 57(5), ‘64(3)(a) and (b)’—*omit, insert—*

‘64B(1)(a) and (b)’.

8. Section 61(6), ‘subsection (5)’—*omit, insert—*

‘subsection (7)’.

9. Section 61(3A) to (6)—*renumber* as section 61(4) to (8).**10. Section 65(1)(a), ‘after receiving a copy of a signed certificate of application’—***omit, insert—*

‘before the last objection day for an application’.

11. Sections 65(1)(a) and 254(1)(a), ‘longer’—*omit, insert—*

‘shorter’.

12. Sections 65(3)(a) and (b) and 254(3)(a) and (b), ‘; and’—*omit, insert—*

‘; or’.

13. Section 74(2A) to (4)—*renumber* as section 72(3) to (5).

SCHEDULE (continued)

14. Section 80(1A) to (3)—

renumber as section 80(2) to (4).

15. Section 81(1)(g) to (p)—

renumber as section 81(1)(f) to (o).

16. Section 81(4), ‘subsection (1)(f), (h)(ii) and (m)’—

omit, insert—

‘subsection (1)(e), (g)(ii) and (l)’.

17. Section 81(2A) to (4)—

renumber as section 81(3) to (5).

18. Section 93(6), ‘subsection (5)’—

omit, insert—

‘subsection (6)’.

19. Section 93(3A) to (8)—

renumber as section 93(4) to (9).

20. Section 96(3), (4) and (6), ‘subsection (2)’—

omit, insert—

‘subsection (3)’.

SCHEDULE (continued)

21. Section 96(5), ‘subsection (4)(a)’—*omit, insert—*

‘subsection (5)(a)’.

22. Section 96(6), ‘subsections (2) and (4)’—*omit, insert—*

‘subsections (3) and (5)’.

23. Section 96(6), ‘subsection (5)’—*omit, insert—*

‘subsection (6)’.

24. Section 96(6), ‘subsection (4)’—*omit, insert—*

‘subsection (5)’.

25. Section 96(9), ‘subsection (5) or (6)’—*omit, insert—*

‘subsections (6) or (7)’.

26. Section 96(1A) to (10)—*renumber* as section 96(2) to (11).**27. Section 107(1)(d)—***renumber* as section 107(1)(c).

SCHEDULE (continued)

28. Section 107(3) and (4), ‘subsection (2)’—*omit, insert—*

‘subsection (3)’.

29. Section 107(5), ‘subsection (4)’—*omit, insert—*

‘subsection (5)’.

30. Section 107(8), ‘subsection (6)’—*omit, insert—*

‘subsection (7)’.

31. Section 107(11), ‘subsection (11)’—*omit, insert—*

‘subsection (12)’.

32. Section 107(1A) to (11)—*renumber* as section 107(2) to (12).**33. Sections 108(2), and 307(3), ‘certificate of application’—***omit, insert—*

‘certificate of public notice’.

34. Section 109(4), ‘for subsection (4)’—*omit.*

SCHEDULE (continued)

35. Section 109(3) to (5)—

renumber as section 109(2) to (4).

36. Section 123(3)(ba) to (e)—

renumber as section 123(3)(c) to (g).

37. Section 141(1)(d) to (k)—

renumber as section 141(1)(c) to (j).

38. Section 141(2A) and (3)—

renumber as section 141(3) and (4).

39. Section 141C(3)(a), ‘141(1)(k)’—

omit, insert—

‘141(1)(j)’.

40. Section 144(13) to (16)—

renumber as section 144(12) to (15).

41. Section 147(3), ‘subsection (2)’—

omit, insert—

‘subsection (4)’.

42. Section 147(1A) to (3)—

renumber as section 147(2) to (5).

SCHEDULE (continued)

43. Section 151(4), ‘subsection (3)(a)’—*omit, insert—*

‘subsection (4)(a)’.

44. Section 151(5), ‘subsections (1) and (3)’—*omit, insert—*

‘subsections (1) and (4)’.

45. Section 151(7), ‘subsection (4)’—*omit, insert—*

‘subsection (5)’.

46. Section 151(2A) to (7)—*renumber* as section 151(3) to (8).**47. Section 160(4A) and (5)—***renumber* as section 160(5) and (6).**48. Section 166(3) to (5)—***renumber* as section 166(2) to (4).**49. Section 176A(3)(a), ‘141(1)(k)’—***omit, insert—*

‘141(1)(j)’.

SCHEDULE (continued)

50. Section 183(n)—

renumber as section 183(m).

51. Section 189(2A) to (4)—

renumber as section 189(3) to (5).

52. Section 194(1)(d) to (k)—

renumber as section 194(1)(c) to (j).

53. Section 194(2A) and (3)—

renumber as section 194(3) and (4).

54. Section 194(5A) and (6)—

renumber as section 194(6) and (7).

55. Section 194AC(3)(a), ‘194(1)(k)’—

omit, insert—

‘194(1)(j)’.

56. Section 197(5), ‘subsection (4)’—

omit, insert—

‘subsection (6)’.

57. Section 197(3A) to (6)—

renumber as section 197(4) to (8).

SCHEDULE (continued)

58. Section 198(4), ‘subsection (3)’—*omit, insert—*

‘subsection (4)’.

59. Section 198(5), ‘subsection (4)(a)’—*omit, insert—*

‘subsection (5)(a)’.

60. Section 198(6), ‘subsections (3) and (4)’—*omit, insert—*

‘subsections (4) and (5)’.

61. Section 198(8), ‘subsection (5)’—*omit, insert—*

‘subsection (6)’.

62. Section 198(1A) to (9)—*renumber* as section 198(2) to (10).**63. Section 209(4A) and (5)—***renumber* as section 209(5) and (6).**64. Section 210(2)(d)—***renumber* as section 210(2)(c).

SCHEDULE (continued)

65. Section 210(3), ‘subsection (12)’—*omit, insert—*

‘subsection (13)’.

66. Section 210(9) and (10), ‘subsection (8)’—*omit, insert—*

‘subsection (9)’.

67. Section 210(10), ‘subsection (9)’—*omit, insert—*

‘subsection (10)’.

68. Section 210(11), ‘subsection (10)’—*omit, insert—*

‘subsection (11)’.

69. Section 210(1A) to (12)—*renumber* as section 210(2) to (13).**70. Section 214(3) to (5)—***renumber* as section 214(2) to (4).**71. Section 226AA(3)(a), ‘194(1)(k)’—***omit, insert—*

‘194(1)(j)’.

SCHEDULE (continued)

72. Section 230(3)(ba) to (d)—

renumber as section 230(3)(c) to (f).

73. Section 235(1A) and (2)—

renumber as section 235(2) and (3).

74. Section 237(2A) to (4)—

renumber as section 237(3) to (6).

75. Section 241(5), ‘252(7)(a) and (b)’—

omit, insert—

‘252B(1)(a) and (b)’.

76. Section 254(1)(a), ‘after receiving a signed certificate of application’—

omit, insert—

‘before the last objection day for an application’.

77. Section 266, ‘a mining lease’—

omit, insert—

‘the mining lease’.

78. Section 266, ‘the issue of a certificate of application’—

omit, insert—

‘a certificate of public notice is given for a mining lease’.

SCHEDULE (continued)

79. Section 268(9) to (11)—

renumber as section 268(8) to (10).

80. Section 276(1)(e) to (p)—

renumber as section 276(1)(c) to (n).

81. Section 276(2), ‘subsection (1)(d), (e) and (k)’—

omit, insert—

‘subsection (1)(c) and (i)’.

82. Section 276(4A) to (5)—

renumber as section 276(5) to (7).

83. Section 277(5), ‘subsection (10)’—

omit, insert—

‘subsection (9)’.

84. Section 277(7), ‘subsection (8)’—

omit, insert—

‘subsection (7)’.

85. Section 277(12), ‘subsection (14)’—

omit, insert—

‘subsection (13)’.

SCHEDULE (continued)

86. Section 277(12), ‘subsection (6)’—*omit, insert—*

‘subsection (5)’.

87. Section 277(13) and (14), ‘subsection (12)’—*omit, insert—*

‘subsection (11)’.

88. Section 277(5) to (14)—*renumber* as section 277(4) to (13).**89. Section 286(2)(d)—***renumber* as section 286(2)(b).**90. Section 286(8) and (10), ‘subsection (7)’—***omit, insert—*

‘subsection (8)’.

91. Section 286(4A) to (10)—*renumber* as section 286(5) to (11).**92. Section 290(8), ‘286(7)’—***omit, insert—*

‘286(8)’.

SCHEDULE (continued)

93. Section 294(1A) to (3A)—

renumber as section 294(2) to (5).

94. Section 295(11)(a), words before ‘that applied’—

omit, insert—

‘(a) the condition under section 276(1)(c)’.

95. Section 295(11)(b), ‘than conditions’—

omit, insert—

‘than the condition’.

96. Section 299(10), ‘section 277(12)’—

omit, insert—

‘section 277(11)’.

97. Section 300(3), (4) and (7), ‘subsection (2)’—

omit, insert—

‘subsection (4)’.

98. Section 300(6), ‘subsection (4)(a)’—

omit, insert—

‘subsection (6)(a)’.

99. Section 300(7), ‘subsections (2) to (5)’—

omit, insert—

‘subsections (4) to (7)’.

SCHEDULE (continued)

100. Section 300(7), ‘subsection (4)’—*omit, insert—*

‘subsection (6)’.

101. Section 300(7) and (10), ‘subsection (6)’—*omit, insert—*

‘subsection (8)’.

102. Section 300(2) to (11)—*renumber* as section 300(4) to (13).**103. Section 309(2)(c) and (f)—***renumber* as section 309(2)(b) and (c).**104. Section 309(8) and (9), ‘subsection (7)’—***omit, insert—*

‘subsection (8)’.

105. Section 309(13), ‘subsection (11)’—*omit, insert—*

‘subsection (12)’.

106. Section 309(2A) to (13)—*renumber* as section 309(3) to (14).

SCHEDULE (continued)

107. Section 314(3)(ba) to (e)—

renumber as section 314(3)(c) to (g).

108. Section 315(10), ‘subsection (9)’—

omit, insert—

‘subsection (10)’.

109. Section 315(4A) to (11)—

renumber as section 315(5) to (12).

110. Section 342(1)(e)(iii), from ‘prospecting permit’ to ‘or any’—

omit, insert—

‘mining tenement or’.

111. Section 343(9)(ba) to (d)—

renumber as section 343(9)(c) to (e).

112. Sections 363(2)(b), 391(b), 399(1), 412(3) and 417(2)(d), from ‘prospecting permit’ to ‘mining lease’—

omit, insert—

‘mining tenement’.

113. Section 389(1), from ‘prospecting permit’ to ‘or lease’—

omit, insert—

‘mining tenement who has lost the instrument of, or for, the tenement’.

SCHEDULE (continued)

114. Section 389(3), ‘applicant’s permit, certificate or’—*omit.***115. Section 389(4), ‘a duplicate permit, certificate or’—***omit, insert—*

‘the duplicate’.

116. Section 391(a), from ‘prospecting’—*omit, insert—*

‘mining tenements; or’.

117. Section 422, definition “registered indigenous land use agreement”—*omit.***118. Sections 471(4), 478(4), 524(3), 581(3), 695(2), 705(2), 730(8) and 731(8), ‘and (ii)’—***omit.***119. Section 652(3)(b)(i), ‘or reissued under section 253’—***omit.***120. Section 652(3)(b)(ii)—***omit.***121. Section 653(1)(h)—***omit.*

SCHEDULE (continued)

122. Section 653(1)(i) and (j)—

renumber as section 653(1)(h) and (i).