



Queensland

Environmental Protection and Other Legislation Amendment Act 2011

Act No. 6 of 2011



Queensland

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Contents

		Page
Part 1	Preliminary	
1	Short title	12
2	Commencement	12
Part 2	Amendment of Aboriginal Cultural Heritage Act 2003	
3	Act amended	12
4	Amendment of s 131 (Issue of warrant)	13
5	Amendment of s 133 (Warrants—procedure before entry)	13
6	Amendment of s 138 (Seizing evidence at a place that may only be entered with consent or warrant)	13
Part 3	Amendment of Coastal Protection and Management Act 1995	
7	Act amended	13
8	Amendment of s 3 (Main objects of Act)	13
9	Replacement of s 4 (How coastal management is to be achieved)	14
	4 How objects of Act are to be achieved	14
10	Replacement of s 11 (Meaning of coastal management)	15
	11 Meaning of coastal management	15
11	Replacement of s 15 (Meaning of coastal zone)	15
	15 Meaning of coastal zone	15
12	Insertion of new ch 1, pt 3A	16
	Part 3A Coastal zone map	
	18A What is the coastal zone map	16
	18B Amending the coastal zone map	16
	18C When coastal zone map takes effect	17
	18D Public inspection and purchase of coastal zone map.	17
13	Replacement of ch 2, pts 1 and 2.	17

Contents

	Part 1	Coastal plan	
	Division 1	Requirement for coastal plan	
	20	Coastal plan must be prepared	18
	21	Content of coastal plan.	18
	22	Process for making, amending or replacing coastal plan	19
	23	Compliance with divs 2 and 3 and regulation under s 22(2)	19
	Division 2	Making coastal plan	
	24	Preparation of draft coastal plan	19
	25	Notice about draft coastal plan.	20
	26	Keeping draft coastal plan available for inspection.	21
	27	Making coastal plan	21
	28	Notice about making coastal plan	22
	Division 3	Amending or replacing coastal plan	
	29	Administrative amendments	22
	30	Other amendments.	23
	31	Replacement of coastal plan	23
	Division 4	When coastal plan or amendment has effect	
	32	When coastal plan or amendment has effect	24
	33	Duration of coastal plan	24
	Division 5	Miscellaneous	
	34	Implementation of coastal plan.	24
	35	Effect of coastal plan	25
	36	Public inspection and purchase of coastal plan or draft coastal plan	25
14		Amendment of s 54 (Declaration of coastal management districts)	26
15		Omission of s 55 (Where coastal management districts may be declared)	26
16		Amendment of s 56 (Things to be considered when declaring coastal management districts)	26
17		Amendment of s 57 (Notice declaring, changing or abolishing coastal management district)	27
18		Amendment of s 58 (Amendment, amalgamation and abolition of coastal management districts)	27
19		Amendment of s 59 (Coastal protection notices)	27
20		Amendment of s 60 (Tidal works notices)	27

21	Amendment of s 68 (Temporary occupation of land)	28
22	Amendment of s 69 (Damaging vegetation)	28
23	Amendment of s 73 (Applications for allocation of quarry material)	29
24	Amendment of s 75 (Criteria for deciding applications)	29
25	Amendment of s 77 (Selling allocation of quarry material by auction or tender)	30
26	Amendment of s 78 (Content of allocation notices)	30
27	Amendment of s 79 (Conditions of allocation notice)	30
28	Amendment of s 80 (Allocation holder to give information)	31
29	Amendment of s 82 (Transferring allocations)	31
30	Insertion of new s 82A	32
	82A Deciding application to transfer allocation	32
31	Amendment of s 83 (Renewing allocations)	33
32	Insertion of new s 83A	33
	83A Deciding application to renew allocation	34
33	Omission of ch 2, pt 5, div 2	35
34	Renumbering of ch 2, pt 5, div 2A	35
35	Amendment of s 100A (Removal of quarry material is subject to other approvals)	35
36	Omission of s 100B (Relationship with Planning Act)	36
37	Amendment of s 101 (Removing quarry material)	36
38	Amendment of s 102 (Royalty or price for quarry material)	36
39	Insertion of new s 104B	36
	104B Applications for operational works involving removal of quarry material	36
40	Omission of s 105 (Declaration for Planning Act, ss 282, 313 and 314)	37
41	Omission of s 108 (Development approvals—conditions for development partly in a coastal management district)	37
42	Amendment of ch 2, pt 6, div 3, hdg (Land surrender conditions)	37
43	Amendment of ch 2, pt 6, div 3, sdiv 2, hdg (Land surrender)	37
44	Amendment of s 110 (Governor in Council may approve inclusion of land surrender condition)	38
45	Amendment of s 111 (Notice of condition about land surrender)	38
46	Amendment of s 113 (Notice of decision about land surrender)	38
47	Insertion of new ch 2, pt 6, div 3, sdivs 3 and 4	38
	Subdivision 3 Voluntary land surrender	

Contents

	115A	Applicant may surrender land voluntarily	38
		Subdivision 4 Giving effect to surrender	
	115B	Surrendered land to be dedicated for coastal management purposes.	39
48		Amendment of s 120C (Chief executive may give exemption certificate without application)	40
49		Insertion of new s 120CA	40
	120CA	Holder of exemption certificate must comply with condition	40
50		Replacement of ss 123 and 124.	40
	123	Right to occupy and use land on which particular tidal works were, or are to be, carried out	40
	124	Obligation to keep particular structure in safe condition	42
51		Amendment of s 144 (Indictable and summary offences)	44
52		Amendment of s 150 (When compensation is payable)	44
53		Amendment of s 160 (How to start appeal)	44
54		Amendment of s 165 (Delegation by chief executive)	44
55		Amendment of s 167 (Regulation-making power)	44
56		Insertion of new ch 6, pt 6	45
	Part 6	Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2011	
	195	Definition for pt 6	45
	196	Continuation of coastal zone	45
	197	Continuation of existing coastal plans	45
	198	Dissolution of coastal protection advisory council	46
	199	Application of s 80 for existing allocations for quarry material	46
	200	Existing dredge management plan applications.	46
	201	Existing approved dredge management plans.	47
	202	Continuing effect of Governor in Council approval of land surrender condition.	47
57		Amendment of schedule (Dictionary)	48
Part 4		Amendment of Environmental Protection Act 1994	
58		Act amended	49
59		Amendment of s 47 (When EIS may be submitted)	49
60		Amendment of s 51 (Public notification)	50

61	Amendment of s 73D (Application for registration to carry out chapter 4 activity)	50
62	Amendment of s 73F (Registration certificates)	50
63	Amendment of s 73G (When registration certificate takes effect)	51
64	Insertion of new ch 4, pt 5A	51
	Part 5A Work diary requirements for particular registered operators	
	73PA Application of pt 5A	51
	73PB Requirement to keep work diary.	51
	73PC Requirement to notify chief executive if work diary lost or stolen.	52
65	Amendment of s 197 (Summary of pt 6 process).	53
66	Amendment of s 222 (Nature of objections decision).	53
67	Amendment of s 224 (Advice from MRA and State Development Ministers about objections decision)	53
68	Amendment of s 225 (EPA Minister's decision on application). . .	54
69	Amendment of s 322 (When environmental audit required).	54
70	Replacement of s 330 (What is a transitional environmental program)	54
	330 What is a transitional environmental program	55
71	Replacement of s 331 (Content of program)	55
	331 Content of program	55
72	Amendment of s 333 (Voluntary submission of draft program) . .	56
73	Replacement of ss 339 and 340.	56
	339 Decision about draft program	57
	340 Notice of decision.	57
	341 Content of approved program.	58
74	Amendment of s 358 (When order may be issued)	58
75	Amendment of s 365 (Person may show cause why financial assurance should not be required for transitional environmental program or site management plan).	58
76	Amendment of s 432 (Contravention of program)	59
77	Insertion of new s 432A	59
	432A Contravention of condition of approval	59
78	Omission of s 440C (When deposit of litter unlawful).	59
79	Amendment of s 440D (Depositing litter)	60
80	Amendment of s 440L (Meaning of audible noise).	61

Contents

81	Amendment of s 453 (Entry of land—search, test, sample etc. for release of contaminant)	61
82	Amendment of s 455 (Entry of land for access)	61
83	Amendment of s 456 (Warrants)	62
84	Amendment of s 465 (Power to require answers to questions) . .	62
85	Amendment of s 473 (Failure to help authorised person—emergency)	62
86	Amendment of s 476 (Failure to answer questions)	63
87	Amendment of s 480 (False, misleading or incomplete documents)	64
88	Insertion of new s 480A	65
	480A Incomplete documents	65
89	Replacement of s 502 (Court may order payment of compensation etc.)	66
	502 Court may make particular orders	66
	502A Administering authority may take action and recover costs	68
90	Amendment of s 530 (Decision for other appeals)	69
91	Amendment of s 552 (What is the application date for application or TEP submission)	69
92	Omission of ch 12, pt 3 (Exemption from disclosure)	70
93	Insertion of new ch 13, pt 17	70
	Part 17 Transitional provisions for the Environmental Protection and Other Legislation Amendment Act 2011	
	666 Definitions for pt 17.	70
	667 Existing EISs	71
	668 Existing application for registration to carry out chapter 4 activity	71
	669 Registration to carry out chapter 4 activity	71
	670 Existing non-code compliant application for a level 1 mining project	72
	671 Existing draft transitional environmental programs. . .	72
	672 Transitional environmental programs	72
	673 Existing application for disclosure exemption.	73
	674 Existing reviews and appeals about disclosure exemptions	73
	675 Existing disclosure exemptions	74
94	Amendment of sch 2 (Original decisions)	74

95	Amendment of sch 4 (Dictionary)	74
Part 5	Amendment of Marine Parks Act 2004	
96	Act amended	75
97	Amendment of s 62 (Issue of warrant)	76
98	Amendment of s 65 (Warrants—procedure before entry)	76
99	Insertion of new ss 145A and 145B	76
	145A Chief executive’s general powers	76
	145B Entry or use by authorised persons without permission or giving notice	76
100	Insertion of new s 147A	77
	147A Immunity from prosecution	77
Part 6	Amendment of Nature Conservation Act 1992	
101	Act amended	77
102	Amendment of s 29 (Dedication of protected areas)	77
103	Amendment of s 148 (Monitoring warrants)	78
104	Amendment of s 149 (Offence related warrants)	78
105	Amendment of s 175 (Regulation-making power)	78
Part 7	Amendment of Queensland Heritage Act 1992	
106	Act amended	78
107	Amendment of s 34 (Changing entries in register)	79
108	Amendment of s 36 (Applying to enter place in, or remove place from, register)	79
109	Amendment of s 44 (Chief executive to give heritage recommendation to council)	79
110	Insertion of new pt 4, div 4A	80
	Division 4A Destroyed place recommendations	
	46A Chief executive may give destroyed place recommendation	80
111	Amendment of s 47 (Council’s role in relation to heritage recommendations)	81
112	Amendment of s 48 (Council may seek further information)	81
113	Amendment of s 54 (Notice of council’s decision)	81
114	Insertion of new pt 4, div 5, sdiv 4	82
	Subdivision 4 Decisions on destroyed place recommendations	
	56A Council to make decision on destroyed place recommendation	82
115	Amendment of s 67 (Notice of council’s decision)	83

Contents

116	Amendment of s 87 (Chief executive may give notice about essential maintenance work)	83
117	Amendment of s 122 (Changing entries in register).	83
118	Amendment of s 136 (Issue of warrant)	84
119	Amendment of s 138 (Warrants—procedure before entry)	84
120	Amendment of s 142 (Seizing evidence at a place that may only be entered with consent or warrant).	84
121	Insertion of new pt 15, div 3	84
	Division 3 Transitional provision for Environmental Protection and Other Legislation Amendment Act 2011	
	195 References to registered place.	85
122	Amendment of schedule (Dictionary)	85
Part 8	Amendment of Recreation Areas Management Act 2006	
123	Act amended	85
124	Amendment of s 19 (Public notice of draft management plan).	86
125	Amendment of s 26 (Public notice of draft amendment)	86
126	Amendment of s 32 (Public access to approved management plans)	86
127	Amendment of s 88 (Term and review of commercial activity agreements)	87
128	Amendment of s 111 (Unlawfully conducting commercial activity)	87
129	Amendment of s 114 (Unauthorised structures and works)	88
130	Amendment of s 115 (Unlawful lighting of fires)	88
131	Amendment of s 153 (Issue of warrant)	89
132	Amendment of s 156 (Warrants procedure before entry)	89
133	Amendment of s 163 (Power to stop persons)	89
Part 9	Amendment of Torres Strait Islander Cultural Heritage Act 2003	
134	Act amended	89
135	Amendment of s 131 (Issue of warrant)	89
136	Amendment of s 133 (Warrants—procedure before entry)	90
137	Amendment of s 138 (Seizing evidence at a place that may only be entered with consent or warrant)	90
Part 10	Amendment of Water Supply (Safety and Reliability) Act 2008	
138	Act amended	90
139	Amendment of s 415 (Issue of warrant)	90

140	Amendment of s 418 (Warrants—procedure before entry)	90
141	Amendment of s 422 (Seizing evidence)	91
Part 11	Other amendments	
142	Acts amended in schedule	91
Schedule	Amendment of other Acts	92
	Environmental Protection Act 1994	92
	Forestry Act 1959	92
	Marine Parks Act 2004	93
	Mineral Resources Act 1989	93
	Nature Conservation Act 1992	93
	Queensland Heritage Act 1992	95
	Sustainable Planning Act 2009	96
	Transport Infrastructure Act 1994	96
	Urban Land Development Authority Act 2007	96



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Environmental Protection and Other Legislation Amendment Act 2011

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An Act to amend the Aboriginal Cultural Heritage Act 2003, the Coastal Protection and Management Act 1995, the Environmental Protection Act 1994, the Marine Parks Act 2004, the Nature Conservation Act 1992, the Queensland Heritage Act 1992, the Recreation Areas Management Act 2006, the Torres Strait Islander Cultural Heritage Act 2003, the Water Supply (Safety and Reliability) Act 2008 and the other Acts mentioned in the schedule for particular purposes

[Assented to 4 April 2011]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Environmental Protection and Other Legislation Amendment Act 2011*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) sections 8 to 18, 21, 24(1), 33 to 41, 52, 54, 55, 57(1), 59, 64, 87, and 127 to 129;
- (b) section 56, to the extent it inserts sections 196 to 198, 200 and 201;
- (c) section 57(2), to the extent it inserts the definitions *administrative amendment*, *coastal hazard*, *coastal plan*, *coastal zone map* and *Planning Minister*;
- (d) section 93, to the extent it inserts new section 667.

Part 2 Amendment of Aboriginal Cultural Heritage Act 2003

3 Act amended

This part amends the *Aboriginal Cultural Heritage Act 2003*.

4 Amendment of s 131 (Issue of warrant)

Section 131(2)(a), after ‘that’—

insert—

‘any authorised officer or’.

5 Amendment of s 133 (Warrants—procedure before entry)

Section 133(1)—

omit, insert—

‘(1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this part.’.

6 Amendment of s 138 (Seizing evidence at a place that may only be entered with consent or warrant)

Section 138(1)(b), after ‘consent or’—

insert—

‘under a’.

Part 3 Amendment of Coastal Protection and Management Act 1995

7 Act amended

This part amends the *Coastal Protection and Management Act 1995*.

8 Amendment of s 3 (Main objects of Act)

(1) Section 3(a), ‘the coast’—

omit, insert—

[s 9]

‘the coastal zone’.

(2) Section 3(c)—

omit, insert—

‘(c) ensure decisions about land use and development safeguard life and property from the threat of coastal hazards; and’.

9 Replacement of s 4 (How coastal management is to be achieved)

Section 4—

omit, insert—

‘4 How objects of Act are to be achieved

‘The objects of this Act are to be achieved by coordinated and integrated planning and decision-making, involving, among other things, the following—

(a) Coastal zone

- Defining the coastal zone, which is the area to which this Act applies.

(b) Coastal plan

- Preparing a coastal plan that—
 - identifies coastal resources
 - states policies for coastal management
 - is developed in consultation with the public
 - has regard to the Aboriginal tradition of Aboriginal people and Island custom of Torres Strait Islanders.

(c) Coastal management districts

- Declaring coastal management districts in the coastal zone as areas requiring special development controls and management practices.

(d) Erosion prone areas

- Declaring erosion prone areas in the coastal zone as areas where particular development requirements are applied.

(e) Use of other legislation

- Using other relevant legislation wherever practicable to achieve the objects of this Act.

(f) Monitoring, reporting and review

- Requiring the chief executive to prepare and publish a report on the state of the coastal zone on a regular basis.’.

10 Replacement of s 11 (Meaning of *coastal management*)

Section 11—

omit, insert—

‘11 Meaning of *coastal management*

‘*Coastal management* includes—

- (a) the protection, conservation, rehabilitation and management of the coastal zone and coastal resources; and
- (b) the ecologically sustainable development of the coastal zone.’.

11 Replacement of s 15 (Meaning of *coastal zone*)

Section 15—

omit, insert—

‘15 Meaning of *coastal zone*

‘The *coastal zone* means the part of the State comprising the following—

- (a) Queensland waters and land within the area shown as the coastal zone on the coastal zone map;

[s 12]

- (b) the airspace above the surface of the area mentioned in paragraph (a);
- (c) the subsoil below the surface of the area mentioned in paragraph (a).’.

12 Insertion of new ch 1, pt 3A

Chapter 1—

insert—

‘Part 3A Coastal zone map

‘18A What is the *coastal zone map*

- ‘(1) The *coastal zone map* is a map certified by the chief executive showing the coastal zone.
- ‘(2) The coastal zone may include only—
 - (a) coastal waters; and
 - (b) land and Queensland waters landward of coastal waters and seaward of the coastal zone inner limit.
- ‘(3) For subsection (2), the *coastal zone inner limit* is, subject to subsection (4), the imaginary line every point of which represents the most landward of the following points—
 - (a) the point that is 5km landward of the high-water mark;
 - (b) the point nearest the high-water mark where land reaches the height of 10m Australian Height Datum.
- ‘(4) If the imaginary line mentioned in subsection (3) intersects a lot, the line may follow either the seaward or landward boundary of the lot instead of following the imaginary line.

‘18B Amending the coastal zone map

‘The chief executive may amend a coastal zone map (the *old map*) by—

- (a) replacing the map; and
- (b) certifying a coastal zone map that replaces the old map.

‘18C When coastal zone map takes effect

- ‘(1) The coastal zone map, or a map replacing a coastal zone map, does not take effect until a regulation approves the map.
- ‘(2) The regulation must state the day on which the map was certified by the chief executive.
- ‘(3) A reference to a coastal zone map is taken to include any replacement under subsection (1) that has taken effect.

‘18D Public inspection and purchase of coastal zone map

- ‘(1) The chief executive must keep the coastal zone map available for inspection by the public during office hours on business days at—
 - (a) the head office and each regional office of the department; and
 - (b) at other places the chief executive considers appropriate.
- ‘(2) On payment of a fee decided by the chief executive, a person may buy a copy of the coastal zone map.
- ‘(3) The fee for a copy of the coastal zone map must not be more than the reasonable cost of publishing the map.
- ‘(4) The chief executive must publish the digital electronic form of the coastal zone map on the department’s website.

Editor’s note—

At the commencement of this section, the department’s website was at <www.derm.qld.gov.au>.’.

13 Replacement of ch 2, pts 1 and 2

Chapter 2, parts 1 and 2—

omit, insert—

[s 13]

‘Part 1 Coastal plan

‘Division 1 Requirement for coastal plan

‘20 Coastal plan must be prepared

‘The Minister must prepare a coastal plan for the coastal zone.

‘21 Content of coastal plan

‘(1) The coastal plan must describe how the coastal zone is to be managed.

‘(2) In preparing the coastal plan, the Minister must consider—

- (a) public access to the foreshore; and
- (b) the effect of climate change on coastal management.

‘(3) The coastal plan may include 1 or more of the following—

- (a) a coastal State planning instrument;
- (b) a map or series of maps showing coastal resource information;
- (c) requirements about coastal resources and land management in the coastal zone.

‘(4) In this section—

coastal State planning instrument means a State planning instrument under the Planning Act that—

- (a) is jointly made by—
 - (i) the Minister; and
 - (ii) the Planning Minister; and
- (b) provides for—
 - (i) the protection, conservation and ecologically sustainable development of the coastal zone; and

- (ii) the making of decisions about land use and development that safeguard life and property from the threat of coastal hazards.

‘22 Process for making, amending or replacing coastal plan

- ‘(1) The process stated in divisions 2 and 3 must be followed for making, amending or replacing the coastal plan.
- ‘(2) A regulation may state an additional requirement to be followed for making, amending or replacing the coastal plan.
- ‘(3) If a regulation under subsection (2) states an additional requirement, the requirement must be complied with.

‘23 Compliance with divs 2 and 3 and regulation under s 22(2)

‘Despite divisions 2 and 3 and any regulation made under section 22(2), if a coastal plan is made, amended or replaced in substantial compliance with the process stated in the divisions and regulation, the coastal plan, amendment or replacement is valid so long as any noncompliance has not—

- (a) adversely affected the awareness of the public of the existence and nature of the proposed coastal plan, amendment or replacement; or
- (b) restricted the opportunity of the public to make properly made submissions about the proposed coastal plan, amendment or replacement under the process stated in the divisions and regulation.

‘Division 2 Making coastal plan

‘24 Preparation of draft coastal plan

‘Before making the coastal plan, the Minister must prepare a draft of the plan.

[s 13]

‘25 Notice about draft coastal plan

- ‘(1) The Minister must publish a notice about a draft coastal plan prepared under section 24 in—
- (a) the gazette; and
 - (b) a newspaper circulating generally in Queensland.
- ‘(2) The notice must state the following—
- (a) that the draft plan is available for inspection and purchase;
 - (b) where copies of the draft plan may be inspected and purchased, including, for example, the department’s website;
 - (c) a contact telephone number for information about the draft plan;
 - (d) that written submissions about any aspect of the draft plan may be given by any person to the Minister;
 - (e) the period (the *consultation period*) during which the submissions may be made;
 - (f) the requirements for a properly made submission.
- ‘(3) The consultation period must be at least 40 business days after the day the notice is gazetted.
- ‘(4) The Minister must give a copy of the notice and draft plan to—
- (a) the Planning Minister; and
 - (b) each local government, port authority and port operator within the area covered by the draft plan; and
 - (c) any other group or person the Minister considers appropriate.
- ‘(5) A local government, port authority or port operator receiving a copy of the draft plan must make the copy available for inspection by the public.

‘26 Keeping draft coastal plan available for inspection

- ‘(1) For the duration of the consultation period, the Minister must—
- (a) keep the draft coastal plan available for inspection by members of the public during office hours on business days at—
 - (i) the head office and each regional office of the department; and
 - (ii) other places the chief executive considers appropriate; and
 - (b) publish a copy of the draft plan on the department’s website.

Editor’s note—

At the commencement of this section, the department’s website was at <www.derm.qld.gov.au>.

- ‘(2) On payment of a fee decided by the chief executive, a person may buy a copy of the draft plan.
- ‘(3) The fee for a copy of the draft plan must not be more than the reasonable cost of publishing the copy.

‘27 Making coastal plan

- ‘(1) The Minister must consider each properly made submission about the draft coastal plan.
- ‘(2) After considering each submission, the Minister may—
- (a) make the coastal plan as provided for in the draft plan; or
 - (b) make the coastal plan as provided for in the draft plan with amendments the Minister considers appropriate.

[s 13]

‘28 Notice about making coastal plan

- ‘(1) After the coastal plan is made, the Minister must publish a notice about its making in the gazette and in a newspaper circulating generally in the State.
- ‘(2) The notice must state—
 - (a) the day the plan was made; and
 - (b) where a copy of the plan may be inspected or purchased.
- ‘(3) The Minister must give a copy of the plan to—
 - (a) the Planning Minister; and
 - (b) each local government, port authority and port operator within the area covered by the plan; and
 - (c) any other group or person the Minister considers appropriate.

‘Division 3 Amending or replacing coastal plan

‘29 Administrative amendments

- ‘(1) The Minister may make an administrative amendment of the coastal plan.
- ‘(2) After the coastal plan is amended under subsection (1), the Minister must publish a notice about the amendment—
 - (a) in the gazette; and
 - (b) in a newspaper circulating generally—
 - (i) if the amendment has effect throughout the State or is made for the whole of the State—in the State; or
 - (ii) if the amendment has effect only in a part of the State—in that part.
- ‘(3) The notice must state—
 - (a) the day the amendment was made; and

- (b) where a copy of the coastal plan, as amended, may be inspected or purchased.
- ‘(4) Division 2 does not apply to the making of an amendment under this section.

‘30 Other amendments

- ‘(1) The Minister may make an amendment, other than an administrative amendment, of the coastal plan only if the process under division 2 for making the coastal plan has been followed subject to subsections (2) and (3).
- ‘(2) For subsection (1), division 2 applies—
 - (a) as if a reference in the division to the coastal plan were a reference to an amendment of the coastal plan; and
 - (b) as if a reference in the division to a draft coastal plan were a reference to a draft amendment of the coastal plan; and
 - (c) as if the reference in section 25(3) to 40 business days were a reference to 20 business days; and
 - (d) with other necessary changes.
- ‘(3) When acting under division 2, the Minister also may decide not to proceed with the amendment of the coastal plan.

‘31 Replacement of coastal plan

‘The Minister may, by following the process under division 2 for making a coastal plan, replace the existing coastal plan with a new plan.

[s 13]

‘Division 4 When coastal plan or amendment has effect

‘32 When coastal plan or amendment has effect

- ‘(1) The coastal plan or an amendment of the coastal plan takes effect on—
- (a) the day the notice about the making of the plan or amendment is gazetted under section 28 or 29; or
 - (b) if a later day for the commencement of the plan or amendment is stated in the notice, plan or amendment—the later day.
- ‘(2) If the coastal plan states that it replaces the existing coastal plan, it replaces the existing plan on and from the day the replacement plan takes effect under subsection (1).

‘33 Duration of coastal plan

- ‘(1) The coastal plan ceases to have effect on—
- (a) the day the coastal plan is replaced under division 3; or
 - (b) otherwise—the day that is 10 years after the day the coastal plan had effect.
- ‘(2) Despite subsection (1)(b), if a day for the ending of the coastal plan is prescribed under a regulation made before the period mentioned in subsection (1)(b) ends, the coastal plan ends on the prescribed day.
- ‘(3) The prescribed day must not be more than 12 years after the day the coastal plan had effect.

‘Division 5 Miscellaneous

‘34 Implementation of coastal plan

- ‘(1) The chief executive must implement the coastal plan.

-
- ‘(2) However, the chief executive may arrange for a department, local government, port authority, port operator or statutory authority (a *relevant entity*) to carry out particular activities necessary to implement the coastal plan.
- ‘(3) Without limiting subsection (2), the chief executive may—
- (a) ask a relevant entity to take coastal management into account when making decisions about land use or development for land in the coastal zone; and
 - (b) ask a relevant entity responsible for managing land in the coastal zone to manage the land in a way that is consistent with coastal management; and
 - (c) ask a relevant entity to carry out an activity in the coastal zone involving—
 - (i) the construction or maintenance of works; or
 - (ii) the extraction of material; or
 - (ii) the disposal of extracted material.

‘35 Effect of coastal plan

‘The coastal plan is a statutory instrument under the *Statutory Instruments Act 1992*.

‘36 Public inspection and purchase of coastal plan or draft coastal plan

- ‘(1) After the coastal plan is made, the chief executive must publish a copy of the coastal plan on the department’s website.

Editor’s note—

At the commencement of this section, the department’s website was at <www.derm.qld.gov.au>.

- ‘(2) Also, the chief executive must keep the coastal plan, and the draft of the coastal plan prepared under section 24, available for inspection by the public during office hours on business days at—

[s 14]

- (a) the head office and each regional office of the department; and
 - (b) other places the chief executive considers appropriate.
- ‘(3) On payment of a fee decided by the chief executive, a person may buy a copy of the coastal plan or draft coastal plan.
- ‘(4) The fee for a copy of the coastal plan or draft coastal plan must not be more than the reasonable cost of publishing the copy.’.

14 Amendment of s 54 (Declaration of coastal management districts)

Section 54(1)—

omit, insert—

- ‘(1) An area within the coastal zone may, under a regulation, be declared as a coastal management district if the Minister considers the area requires protection or management.’.

15 Omission of s 55 (Where coastal management districts may be declared)

Section 55—

omit.

16 Amendment of s 56 (Things to be considered when declaring coastal management districts)

- (1) Section 56(d), ‘natural hazards’—

omit, insert—

‘coastal hazards’.

- (2) Section 56—

insert—

‘(h) the need to conserve, protect or rehabilitate coastal ecological systems or geomorphic features of the area.’.

17 Amendment of s 57 (Notice declaring, changing or abolishing coastal management district)

Section 57(1), ‘section 54(1)(b)’—

omit, insert—

‘section 54(1)’.

18 Amendment of s 58 (Amendment, amalgamation and abolition of coastal management districts)

Section 58(1), ‘section 54(1)(b)’—

omit, insert—

‘section 54(1)’.

19 Amendment of s 59 (Coastal protection notices)

Section 59(2)(b)—

omit, insert—

‘(b) to stop, or not start, an activity stated in the notice, if the chief executive is satisfied the activity is causing, or is likely to cause—

(i) an adverse effect on coastal resources; or

(ii) wind erosion.’.

20 Amendment of s 60 (Tidal works notices)

(1) Section 60(2) to (5)—

renumber as section 60(5) to (8).

(2) Section 60(1)—

omit, insert—

‘(1) Subsection (2) applies if, in the chief executive’s opinion, tidal works (the *relevant works*) need repair, are abandoned or should be removed to—

(a) protect public safety; or

[s 21]

- (b) prevent adverse effects on coastal resources.
- ‘(2) The chief executive may give a notice (a *tidal works notice*) to the person responsible for the relevant works.
- ‘(3) Subsection (4) applies if, in the chief executive’s opinion, a structure mentioned in section 124(1) or (3) needs repair, is abandoned or should be removed to—
 - (a) protect public safety; or
 - (b) prevent adverse effects on coastal resources.
- ‘(4) The chief executive may give a notice (also a *tidal works notice*) to a person who must ensure the structure is maintained in a safe condition under section 124(2) or (4).’.
- (3) Section 60(6)(a), as renumbered, ‘the tidal works’—
omit, insert—
‘the relevant works or structure’.
- (4) Section 60(6)(b), as renumbered, ‘the tidal works’—
omit, insert—
‘the relevant works or structure.’.
- (5) Section 60(8), as renumbered, ‘subsection (5)’—
omit, insert—
‘subsection (8)’.

21 Amendment of s 68 (Temporary occupation of land)

Section 68(1), ‘a coastal plan’—

omit, insert—

‘the coastal plan’.

22 Amendment of s 69 (Damaging vegetation)

(1) Section 69, heading—

omit, insert—

‘69 Damaging or removing vegetation, or damaging coastal dunes’.

(2) Section 69(1), ‘vegetation on State coastal land’—

omit, insert—

‘or remove vegetation on, or damage a dune forming part of, State coastal land above the high-water mark’.

(3) Section 69(2), definition *damage*—

omit, insert—

‘**damage**, to vegetation or a dune, does not include minor damage to the vegetation or dune that happens in the course of the ordinary use of the land on which the vegetation is situated or of which the dune forms a part.’.

23 Amendment of s 73 (Applications for allocation of quarry material)

Section 73(1), ‘below high-water mark’—

omit, insert—

‘in tidal water’.

24 Amendment of s 75 (Criteria for deciding applications)

(1) Section 75(1)(a)—

omit, insert—

‘(a) the coastal plan; and’.

(2) Section 75(3)(a)—

omit, insert—

‘(a) fair and equitable access to, and the need to ensure the economic use of, State resources; and’.

(3) Section 75(3)(d)—

omit, insert—

[s 25]

‘(d) the views of a harbour master about the effect the removal or placement may have on marine safety in tidal water; and’.

- (4) Section 75(3)(e), ‘under tidal water’—
omit.

25 Amendment of s 77 (Selling allocation of quarry material by auction or tender)

- (1) Section 77(1), ‘below high-water mark’—
omit, insert—
‘in tidal water’.

- (2) Section 77(2), from ‘consider’—
omit, insert—
‘consider—

- (a) the impact the removal of the quarry material or placement of spoil may have on coastal management; and
(b) the matters mentioned in section 75.’.

26 Amendment of s 78 (Content of allocation notices)

Section 78(c), after ‘royalty’—
insert—
‘, or the price,’.

27 Amendment of s 79 (Conditions of allocation notice)

- (1) Section 79, ‘appropriate’—
omit, insert—
‘necessary or desirable’.
- (2) Section 79—

insert—

- ‘(d) when the royalty, or price payable, for the removal of the quarry material must be paid; and
- (e) giving the chief executive information about the rate at which the quarry material is removed during stated intervals.’.

28 Amendment of s 80 (Allocation holder to give information)

Section 80(2)—

omit, insert—

- ‘(2) The holder must—
 - (a) if the allocation notice states a condition about the time within which, and the period for which, the holder must give written notice to the chief executive about the quantity of quarry material removed by the holder under the allocation in the period—give the chief executive a written notice in compliance with the condition; or
 - (b) otherwise—within 20 business days after the end of a quarter, give the chief executive a written notice stating the quantity of quarry material removed by the holder under the allocation in the quarter.

Maximum penalty—50 penalty units.

- ‘(3) In this section—
quarter means a 3-month period ending on 31 March, 30 June, 30 September or 31 December.’.

29 Amendment of s 82 (Transferring allocations)

- (1) Section 82, heading—

omit, insert—

‘82 Application to transfer allocation’.

- (2) Section 82(3) to (7)—

[s 30]

omit, insert—

- ‘(3) The chief executive may, by written notice, ask the applicant to give the chief executive further information or documents about the application by the reasonable date stated in the notice.
- ‘(4) If the applicant does not give the chief executive the further information or documents by the stated day, the application lapses.’.

30 Insertion of new s 82A

After section 82—

insert—

‘82A Deciding application to transfer allocation

- ‘(1) The chief executive must decide an application to transfer an allocation made under section 82 within 30 days after—
 - (a) if further information or documents are requested under section 82(3)—receiving the further information or documents; or
 - (b) otherwise—receiving the application.
- ‘(2) The chief executive must decide to—
 - (a) approve the transfer as applied for, with or without conditions; or
 - (b) approve the transfer, as varied by the chief executive, with or without conditions; or
 - (c) refuse to approve the transfer.
- ‘(3) In making a decision under subsection (2), the chief executive must consider—
 - (a) the impact the transfer may have on coastal management; and
 - (b) the matters mentioned in section 75.
- ‘(4) Within 30 business days after deciding the application, the chief executive must—

-
- (a) give the applicant and the proposed transferee written notice of the decision; and
 - (b) if the transfer is approved—
 - (i) give the transferee a new allocation in accordance with the approval; and
 - (ii) if the transfer is of only a part of an allocation—give the applicant an amended allocation notice for the part not transferred.
- ‘(5) A transfer of an allocation has effect from the day written notice of the approval of the transfer is given under subsection (4).
- ‘(6) In this section—
coastal management does not include coastal management in relation to Aboriginal cultural heritage or Torres Strait Islander cultural heritage.’.

31 Amendment of s 83 (Renewing allocations)

- (1) Section 83, heading—
omit, insert—

‘83 Application to renew allocation

- (2) Section 83(3) to (7)—
omit, insert—
- ‘(3) The chief executive may, by written notice, ask the applicant to give the chief executive further information or documents about the application by the reasonable date stated in the notice.
- ‘(4) If the applicant does not give the chief executive the further information or documents by the stated day, the application lapses.’.

32 Insertion of new s 83A

After section 83—

[s 32]

insert—

‘83A Deciding application to renew allocation

- ‘(1) The chief executive must decide an application to renew an allocation notice made under section 83 within 30 days after receiving—
- (a) if further information or documents are requested under section 83(3)—the further information or documents; or
 - (b) otherwise—the application.
- ‘(2) The chief executive must decide to—
- (a) approve the renewal as applied for, with or without conditions; or
 - (b) approve the renewal, as varied by the chief executive, with or without conditions; or
 - (c) refuse to grant the application.
- ‘(3) In making a decision under subsection (2), the chief executive must consider—
- (a) the impact the renewal may have on coastal management; and
 - (b) the matters mentioned in section 75.
- ‘(4) Within 30 business days after deciding the application, the chief executive must give the applicant—
- (a) a written notice stating—
 - (i) the decision; and
 - (ii) if the chief executive approves the renewal as varied or with conditions, or refuses to grant the application—the reasons for the decision; and
 - (b) if the renewal is approved—a new allocation notice in accordance with the approval.
- ‘(5) This division applies, with all necessary changes, to the application as if it were an application for an allocation.
- ‘(6) In this section—

coastal management does not include coastal management in relation to Aboriginal cultural heritage or Torres Strait Islander cultural heritage.’

33 Omission of ch 2, pt 5, div 2

Chapter 2, part 5, division 2—

omit.

34 Renumbering of ch 2, pt 5, div 2A

Chapter 2, part 5, division 2A—

renumber as chapter 2, part 5, division 2.

35 Amendment of s 100A (Removal of quarry material is subject to other approvals)

(1) Section 100A(1), (4) and (5), ‘or an approved dredge management plan’—

omit.

(2) Section 100A(1), (2) and (5)(b), ‘or plan’—

omit.

(3) Section 100A(3), ‘below high-water mark’—

omit, insert—

‘in tidal water’.

(4) Section 100A(6)—

omit.

(5) Section 100A(7)—

renumber as subsection 100A(6).

[s 36]

36 Omission of s 100B (Relationship with Planning Act)

Section 100B—

omit.

37 Amendment of s 101 (Removing quarry material)

Section 101(1) and (2)—

omit, insert—

‘(1) A person must not, without reasonable excuse, remove quarry material from tidal water unless the person is the holder of an allocation notice for the material.

Maximum penalty—1665 penalty units.

‘(2) A person must not, without reasonable excuse, contravene a condition of an allocation notice.

Maximum penalty—1665 penalty units.’.

38 Amendment of s 102 (Royalty or price for quarry material)

Section 102(1), ‘or a dredge management plan’—

omit.

39 Insertion of new s 104B

After section 104A—

insert—

‘104B Applications for operational works involving removal of quarry material

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

(a) the person makes a development application for operational work that is tidal works; and

(b) the operational work involves the removal of quarry material from tidal water.

‘(2) The following apply—

-
- (a) despite the Planning Act, section 264(1), if a State resource prescribed under a regulation under that provision is quarry material, the application need not be supported by any evidence relating to the quarry material prescribed under the regulation;
- (b) the person is taken to have made an application for an allocation of the quarry material under section 73, and the application must be dealt with in the usual way under part 5, division 1, subdivision 1.
- ‘(3) However, the person is not required to pay the fee mentioned in section 73(2)(b).’.

40 Omission of s 105 (Declaration for Planning Act, ss 282, 313 and 314)

Section 105—

omit.

41 Omission of s 108 (Development approvals—conditions for development partly in a coastal management district)

Section 108—

omit.

42 Amendment of ch 2, pt 6, div 3, hdg (Land surrender conditions)

Chapter 2, part 6, division 3, heading, ‘conditions’—

omit.

43 Amendment of ch 2, pt 6, div 3, sdiv 2, hdg (Land surrender)

Chapter 2, part 6, division 3, subdivision 2, heading, after ‘surrender’—

[s 44]

insert—

‘conditions’.

44 Amendment of s 110 (Governor in Council may approve inclusion of land surrender condition)

Section 110, ‘Governor in Council’—

omit, insert—

‘Minister’.

45 Amendment of s 111 (Notice of condition about land surrender)

Section 111(3), ‘received by’—

omit, insert—

‘given to’.

46 Amendment of s 113 (Notice of decision about land surrender)

Section 113(2)(b)(i), ‘Governor in Council’—

omit, insert—

‘Minister’.

47 Insertion of new ch 2, pt 6, div 3, sdivs 3 and 4

Chapter 2, part 6, division 3—

insert—

‘Subdivision 3 Voluntary land surrender

‘115A Applicant may surrender land voluntarily

‘(1) The applicant for the development application may surrender a part of the lot in the coastal management district to the State

for coastal management without the imposition of a land surrender condition under subdivision 2.

Note—

See section 115B for how a part of a lot is surrendered to the State under this section.

- ‘(2) To remove any doubt, it is declared that subdivision 2 does not apply to a part of a lot surrendered under subsection (1).

‘Subdivision 4 Giving effect to surrender

‘115B Surrendered land to be dedicated for coastal management purposes

- ‘(1) This section applies to the surrender of a part of the lot in the coastal management district to the State under a land surrender condition or under section 115A.
- ‘(2) The plan of subdivision under the *Land Title Act 1994* giving effect to the surrender must dedicate the surrendered land for coastal management.
- ‘(3) On registration of the plan of subdivision, without anything further, the surrendered land is dedicated as a reserve under the *Land Act 1994* for coastal management.
- ‘(4) Subsection (3) applies despite the *Land Title Act 1994*, section 51.
- ‘(5) For the *Land Act 1994*, the trustee of the reserve is—
- (a) if the local government for the area in which the surrendered land is situated has endorsed the plan of subdivision with its acceptance of the trusteeship of the reserve—the local government; or
 - (b) otherwise—the State.
- ‘(6) The registrar under the *Land Act 1994* must record the following particulars about the reserve in the register kept under section 276(b) of that Act—

[s 48]

- (a) the particulars of the dedication of the reserve under this section;
- (b) the name of the trustee.’.

48 Amendment of s 120C (Chief executive may give exemption certificate without application)

Section 120C, after ‘section 120A(1)’—

insert—

‘, with or without conditions’.

49 Insertion of new s 120CA

Part 6, division 5, after section 120C—

insert—

‘120CA Holder of exemption certificate must comply with condition

‘The holder of an exemption certificate must not, without a reasonable excuse, contravene a condition of the certificate.

Maximum penalty—165 penalty units.’.

50 Replacement of ss 123 and 124

Sections 123 and 124—

omit, insert—

‘123 Right to occupy and use land on which particular tidal works were, or are to be, carried out

- ‘(1) This section applies if a development permit has been, or is, granted for operational work that is tidal works that—
 - (a) were, or are to be, carried out wholly or partly on State tidal land; and
 - (b) were, or are to be—

- (i) carried out by, for or under the authority of the owner or occupier of land adjacent to the State tidal land; or

Example of tidal works for subparagraph (i)—

the construction of a private jetty, mooring pile, pontoon or domestic pipeline

- (ii) carried out by or for a public utility provider for the purpose of providing a public utility service.

Example of tidal works for subparagraph (ii)—

the construction of infrastructure across a waterway for providing electricity, gas or telecommunication services

‘(2) Also, this section applies if a development permit has been, or is, granted for operational work that is tidal works carried out wholly or partly on State tidal land that are works for the construction of public infrastructure.

‘(3) However, this section does not apply for a development permit granted for operational work that is tidal works mentioned in subsection (1)(b)(i) if the tidal works include the construction of a structure that facilitates, or will facilitate, a commercial enterprise.

‘(4) A relevant person for the tidal works, and any person authorised by the relevant person, has a right to occupy and use the State tidal land for each of the following—

- (a) carrying out the tidal works in accordance with the development permit;
- (b) if the tidal works include the construction of a structure—maintaining and using the structure.

‘(5) In this section—

public infrastructure means infrastructure that is constructed or operated for the general public.

public utility provider means—

- (a) the State or another entity representing the State; or
- (b) the Commonwealth or another entity representing the Commonwealth; or

[s 50]

- (c) a local government; or
- (d) a person authorised by law to provide a public utility service; or
- (e) a mill owner under the *Sugar Industry Act 1999*.

relevant person, for tidal works, means—

- (a) for tidal works carried out by, for or under the authority of the owner of freehold land adjacent to State tidal land—the owner of the freehold land at the relevant time; or
- (b) for tidal works carried out by, for or under the authority of the occupier of land, other than freehold land, adjacent to State tidal land—the occupier of the land at the relevant time; or
- (c) for tidal works carried out by or for a public utility provider—the public utility provider; or
- (d) for tidal works that included the construction of a structure, anyone else, including, for example, a local government acting as a trustee, who is responsible—
 - (i) under any law or agreement to ensure the structure is in a safe condition; or
 - (ii) for any wrong arising out of a failure to ensure the structure is in a safe condition.

‘124 Obligation to keep particular structure in safe condition

- ‘(1) Subsection (2) applies to tidal works that included the construction of a structure if a relevant person, and any person authorised by the relevant person, has a right to occupy and use State tidal land for maintaining and using the structure under section 123(4).
- ‘(2) A relevant person for the tidal works must ensure the structure is maintained in a safe condition.
- ‘(3) Subsection (4) applies to a structure for which there is a sanction or authorisation mentioned in section 171 that, under

that section, has (together with any of its conditions) effect as if it were a development approval for operational work that is tidal works.

- ‘(4) The following persons must ensure the structure is maintained in a safe condition—
- (a) a person who is an owner of freehold land, or a lessee of land leased from the State, if the land—
 - (i) is above high-water mark; and
 - (ii) is connected to, or receives the benefit of, the structure;
 - (b) anyone else, including, for example, a local government acting as a trustee, who is responsible—
 - (i) under any law or agreement to ensure the structure is in a safe condition; or
 - (ii) for any wrong arising out of a failure to ensure the structure is in a safe condition.
- ‘(5) Subsection (2) or (4) does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.
- ‘(6) Without limiting subsection (5), compliance with subsection (2) or (4) does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.
- ‘(7) Also, a breach of an obligation under subsection (2) or (4) does not, of itself, give rise to an action for breach of statutory duty or another civil right or remedy.

Note—

For the consequences of a failure to comply with the obligation under subsection (2) or (4), see part 3, division 2.

- ‘(8) In this section—
relevant person see section 123(5).’.

[s 51]

51 Amendment of s 144 (Indictable and summary offences)

Section 144(1), ‘60(5)’—

omit, insert—

‘60(8)’.

52 Amendment of s 150 (When compensation is payable)

Section 150(1), ‘a coastal plan’—

omit, insert—

‘the coastal plan’.

53 Amendment of s 160 (How to start appeal)

Section 160(2)(a)(i), ‘and 60(2)’—

omit, insert—

‘or 60(2) or (4)’.

54 Amendment of s 165 (Delegation by chief executive)

Section 165(3)—

omit.

55 Amendment of s 167 (Regulation-making power)

(1) Section 167(2)(h), from ‘coastal plans’ to ‘a coastal plan’—

omit, insert—

‘the coastal plan, including, for example, giving a notice about a contravention of the coastal plan’.

(2) Section 167(2)(i), ‘a coastal plan’—

omit, insert—

‘the coastal plan’.

56 Insertion of new ch 6, pt 6

Chapter 6—

insert—

**‘Part 6 Transitional provisions for
Environmental Protection and
Other Legislation Amendment
Act 2011**

‘195 Definition for pt 6

‘In this part—

previous, if followed by a provision number, means the provision of that number in force before the commencement of this section.

‘196 Continuation of coastal zone

‘The coastal zone under previous section 15 continues until the day a coastal zone map takes effect under section 18C.

‘197 Continuation of existing coastal plans

- ‘(1) Each coastal plan (an *existing coastal plan*) made under previous chapter 2, part 2 in force immediately before the day this section commences continues in effect until the day a coastal plan takes effect under section 32(1).
- ‘(2) Until the day the coastal plan takes effect, a reference to the coastal plan in a document or the provisions of this Act mentioned in subsection (3) is taken, wherever possible, to be a reference to an existing coastal plan.
- ‘(3) For subsection (2), the provisions are sections 68, 75, 150 and 167.

[s 56]

‘198 Dissolution of coastal protection advisory council

‘On the day this section commences—

- (a) the coastal protection advisory council established under previous section 20 is dissolved; and
- (b) any person who, immediately before the day this section commences, held office as a member of the coastal protection advisory council under previous section 22 goes out of office on the day this section commences and is not entitled to compensation because of the operation of this section.

‘199 Application of s 80 for existing allocations for quarry material

- ‘(1) This section applies to the holder of an allocation notice for quarry material if, immediately before the day this section commences, previous section 80 applied to the holder.
- ‘(2) Despite section 80(2)(b), previous section 80(2) continues to apply to the holder of the notice until the beginning of the quarter first happening after the day this section commences.
- ‘(3) In this section—
quarter means a 3-month period ending on 31 March, 30 June, 30 September or 31 December.

‘200 Existing dredge management plan applications

- ‘(1) This section applies if an application for approval of a dredge management plan made under previous section 91 has not been decided before the day this section commences.
- ‘(2) The application must be decided under previous chapter 2, part 5, division 2, subdivision 2.
- ‘(3) If the application is approved, previous chapter 2, part 5, divisions 2 and 2A continue to apply in relation to the approved dredge management plan as if the *Environmental Protection and Other Legislation Amendment Act 2011* had not commenced.

‘201 Existing approved dredge management plans

- ‘(1) This section applies to a dredge management plan approved under previous section 93 if the plan was in effect immediately before the day this section commences.
- ‘(2) The dredge management plan continues in effect until it is cancelled, suspended or otherwise ended.
- ‘(3) Previous chapter 2, part 5, divisions 2 and 2A continue to apply in relation to the dredge management plan as if the *Environmental Protection and Other Legislation Amendment Act 2011* had not commenced.
- ‘(4) To remove any doubt, it is declared that subsection (3) applies if, immediately before the day this section commences—
 - (a) the holder of an approved dredge management plan had applied for a transfer of the plan under previous section 95 or a renewal of the plan under previous section 96, and before the day this section commences the application has not been decided; or
 - (b) the chief executive had started a procedure to amend, suspend or cancel an approval of a dredge management plan under previous section 99, and before the day this section commences a proposed action under previous section 99 has not been taken.

‘202 Continuing effect of Governor in Council approval of land surrender condition

- ‘(1) This section applies if, before the day this section commences, the Governor in Council has approved the inclusion of a land surrender condition under previous section 110(2)(c).
- ‘(2) The approval continues to have effect as if it were an approval by the Minister under section 110(2)(c).
- ‘(3) If a notice has not been given under previous section 113 in relation to the condition before the day this section commences, previous section 113 continues to apply for the giving of the notice as if the *Environmental Protection and Other Legislation Amendment Act 2011* had not commenced.’.

[s 57]

57 Amendment of schedule (Dictionary)

(1) Schedule, definitions *advisory council*, *coastal plan*, *key coastal site*, *regional plan* and *State plan*—

omit.

(2) Schedule—

insert—

'administrative amendment, of a coastal plan, means an amendment correcting or changing—

- (a) an explanatory matter about the plan; or
- (b) the format or presentation of the plan; or
- (c) a spelling, grammatical or mapping error in the plan; or
- (d) a factual matter incorrectly stated in the plan; or
- (e) a redundant or outdated term in the plan; or
- (f) inconsistent numbering of provisions in the plan; or
- (g) a cross-reference in the plan.

coastal hazard means erosion of the foreshore or tidal inundation.

coastal plan means the coastal plan made under chapter 2, part 1.

coastal zone map see section 18A.

Planning Minister means the Minister administering the Planning Act.

previous, for chapter 6, part 6, see section 195.

State tidal land means land in the coastal zone other than the following—

- (a) land for which a lease under the *Land Act 1994* is granted;
- (b) land for which a permit to occupy is issued under the *Land Act 1994*;
- (c) freehold land, including inundated land;

[s 60]

60 Amendment of s 51 (Public notification)

Section 51(2)(b), ‘publish’—

omit, insert—

‘after giving the EIS notice under paragraph (a), publish’.

61 Amendment of s 73D (Application for registration to carry out chapter 4 activity)

(1) Section 73D(2) and (3)—

renumber as section 73D(3) and (4).

(2) Section 73D—

insert—

‘(2) However, if a chapter 4 activity is assessable development, the person can not apply to be a registered operator to carry out the activity until and unless a development permit for the activity takes effect.’.

62 Amendment of s 73F (Registration certificates)

(1) Section 73F(3)(b)(iii)—

omit, insert—

‘(iii) the activities do not constitute a significant business activity;

(iv) the administering authority is satisfied it would be appropriate, having regard to the level of integration of the activities, to grant a single registration certificate for them.’.

(2) Section 73F(5)(b), ‘section 73D(2)(b)’—

omit, insert—

‘section 73D(3)(b)’.

(3) Section 73F—

insert—

‘(9) In this section—

significant business activity has the meaning given by the *Local Government Act 2009*, section 43.’.

63 Amendment of s 73G (When registration certificate takes effect)

Section 73G(3)—

omit.

64 Insertion of new ch 4, pt 5A

Chapter 4—

insert—

‘Part 5A Work diary requirements for particular registered operators

‘73PA Application of pt 5A

‘(1) This part applies to a registered operator carrying out a chapter 4 activity that is a mobile and temporary environmentally relevant activity, unless the activity is regulated waste transport.

‘(2) In this section—

regulated waste transport means a chapter 4 activity prescribed under a regulation for this section, relating to the transport of waste.

‘73PB Requirement to keep work diary

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

Maximum penalty—100 penalty units.

[s 64]

- ‘(2) The approved form must provide for the inclusion of the following—
- (a) details of each location at which the mobile and temporary environmentally relevant activity is carried out by the registered operator;
 - (b) the dates on which the activity is carried out by the operator.
- ‘(3) The registered operator must record the information required under the approved form within 1 day after the day the operator vacates each location at which the mobile and temporary environmentally relevant activity is carried out, unless the operator has a reasonable excuse.

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

‘73PC Requirement to notify chief executive if work diary lost or stolen

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

Maximum penalty—50 penalty units.

- ‘(2) In this section—

work diary, of a registered operator, means the work diary the operator keeps under section 73PB.’.

65 Amendment of s 197 (Summary of pt 6 process)

Section 197, table, entry for stage 5, paragraph (a), item 2,
'MRA Minister'—

omit, insert—

'EPA Minister'.

66 Amendment of s 222 (Nature of objections decision)

(1) Section 222(1), 'MRA Minister'—

omit, insert—

'EPA Minister'.

(2) Section 222(3)—

omit, insert—

'(3) The Land Court must, as soon as practicable after the decision
is made, give a copy of the decision to each of the following—

(a) the MRA Minister;

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

**67 Amendment of s 224 (Advice from MRA and State
Development Ministers about objections decision)**

(1) Section 224(1) to (3)—

omit, insert—

'(1) This section applies if the MRA Minister or State
Development Minister is given a copy of the objections
decision under section 222(3).

'(2) The MRA Minister or State Development Minister must
advise the EPA Minister about any matter the MRA Minister
or State Development Minister considers may help the EPA
Minister to make a decision under section 225.

'(3) The advice must be given within the period ending at the later
of the following—

[s 68]

- (a) 10 business days after the copy of the decision is received;
 - (b) if the Ministers have, within the 10 business days, agreed to a longer period—the longer period.’.
- (2) Section 224(4), ‘sought’—
omit.

68 Amendment of s 225 (EPA Minister’s decision on application)

Section 225(2)—

omit, insert—

- ‘(2) The Minister’s decision must be made within the period ending at the later of the following—
- (a) 10 business days after the last advice by a Minister is received under section 224(2);
 - (b) 20 business days after the objections decision is made.’.

69 Amendment of s 322 (When environmental audit required)

Section 322(1)—

insert—

- ‘(d) a person is, or has been, contravening any of the following provisions—
- (i) section 363E;
 - (ii) section 440Q;
 - (iii) section 440ZG;
 - (iv) a provision of chapter 8, part 3D, 3E or 3F;’.

70 Replacement of s 330 (What is a transitional environmental program)

Section 330—

omit, insert—

‘330 What is a transitional environmental program

‘A *transitional environmental program* is a specific program that, when complied with, achieves compliance with this Act for the activity to which it relates by doing 1 or more of the following—

- (a) reducing environmental harm caused by the activity;
- (b) detailing the transition of the activity to an environmental standard;
- (c) detailing the transition of the activity to comply with—
 - (i) a condition, including a standard environmental condition, of an environmental authority or code of environmental compliance; or
 - (ii) a development condition.’.

71 Replacement of s 331 (Content of program)

Section 331—

omit, insert—

‘331 Content of program

‘A transitional environmental program must, for the activity to which it relates—

- (a) state the objectives to be achieved and maintained under the program for the activity; and
- (b) state the particular actions required to achieve the objectives, and the day by which each action must be carried out, taking into account—
 - (i) the best practice environmental management for the activity; and
 - (ii) the risks of environmental harm being caused by the activity; and

[s 72]

- (c) state how any environmental harm that may be caused by the activity will be prevented or minimised, including any interim measures that are to be implemented; and
- (d) if the activity is to transition to an environmental standard, state—
 - (i) details of the standard; and
 - (ii) how the activity is to transition to the standard before the program ends; and
- (e) if the activity is to transition to comply with a condition of an environmental authority or code of environmental compliance, or a development condition, state—
 - (i) details of the condition and how the activity does not comply with it; and
 - (ii) how compliance with the condition will be achieved before the program ends; and
- (f) state the period over which the program is to be carried out; and
- (g) state appropriate performance indicators at intervals of not more than 6 months; and
- (h) provide for monitoring and reporting on compliance with the program.’.

72 Amendment of s 333 (Voluntary submission of draft program)

Section 333(2), from ‘substantially’ to ‘program’—

omit, insert—

‘contains or provides for the matters mentioned in section 331’.

73 Replacement of ss 339 and 340

Sections 339 and 340—

omit, insert—

‘339 Decision about draft program

- ‘(1) The administering authority may—
 - (a) approve a draft transitional environmental program—
 - (i) as submitted; or
 - (ii) as amended at the request, or with the agreement, of the administering authority; or
 - (b) refuse to approve a draft transitional environmental program.
- ‘(2) The administering authority may impose on an approval of a draft transitional environmental program—
 - (a) any conditions the authority must impose under a regulatory requirement; and
 - (b) any other conditions the administering authority considers appropriate.
- ‘(3) If the draft transitional environmental program is approved, the approval remains in force for the period stated in the notice of the approval given under section 340.

‘340 Notice of decision

- ‘(1) The administering authority must, within 8 business days after making a decision under section 339, give the person or public authority that submitted the program a written notice about the decision.
- ‘(2) If the administering authority approves the program, the notice must—
 - (a) identify the documents forming the approved transitional program, including any amendments under section 339(1)(a)(ii); and
 - (b) state any conditions imposed on the approval by the administering authority; and
 - (c) state the day the approval ends.

[s 74]

- ‘(3) If the administering authority refuses to approve the program or approves the program with conditions, the notice must be an information notice.

‘341 Content of approved program

‘An approved transitional environmental program consists of the following—

- (a) the draft of the program submitted under section 332 or 333, as amended at the request, or with the agreement, of the administering authority;
- (b) any conditions imposed on the program by the administering authority.’.

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

Section 358—

insert—

- ‘(e) if the person is, or has been, contravening any of the following provisions—
- (i) section 363E;
 - (ii) section 440Q;
 - (iii) section 440ZG;
 - (iv) a provision of chapter 8, part 3D, 3E or 3F.’.

75 Amendment of s 365 (Person may show cause why financial assurance should not be required for transitional environmental program or site management plan)

- (1) Section 365(1), from ‘issuing’ to ‘or site’—

omit, insert—

‘approving a transitional environmental program or issuing a certificate of approval of a site’.

-
- (2) Section 365(2)(c) and (d) and (4)(a), ‘person’—
insert—
‘applicant or person’.
- (3) Section 365(4)(b), from ‘holder’ to ‘person’—
omit, insert—
‘holder of the approval give financial assurance—the
authority must give written notice to the holder’.

76 Amendment of s 432 (Contravention of program)

- (1) Section 432, heading, ‘program’—
omit, insert—
‘requirement of program’.
- (2) Section 432(1) and (2), after ‘contravene’—
insert—
‘a requirement of’.

77 Insertion of new s 432A

After section 432—
insert—

‘432A Contravention of condition of approval

‘A person must not, without reasonable excuse, contravene a
condition of an approval of a transitional environmental
program.

Maximum penalty—835 penalty units.’.

78 Omission of s 440C (When deposit of litter unlawful)

Section 440C—
omit.

[s 79]

79 Amendment of s 440D (Depositing litter)

(1) Section 440D(1), ‘unlawfully’—

omit.

(2) Section 440D—

insert—

‘(1A) Subsection (1) does not apply to a person who deposits litter at a place other than a road if—

- (a) the person is an occupier of the place; or
- (b) the person deposits the litter with the consent of an occupier of the place; or
- (c) the person deposits the litter by placing it in a litter bin or other container provided by an occupier of the place for the purpose of depositing litter.’.

(3) Section 440D(2)—

insert—

‘**occupier**, of a place, includes a person who exercises or may exercise lawful authority or control in relation to the place.

road means—

- (a) an area of land dedicated to public use as a road; or
- (b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or
- (c) a bridge, culvert, ferry, ford, tunnel or viaduct; or
- (d) a pedestrian or bicycle path; or
- (e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d).’.

(4) Section 440D(1A) and (2)—

renumber as section 440D(2) and (3).

80 Amendment of s 440L (Meaning of *audible noise*)

Section 440L(1), ‘a building’—

omit, insert—

‘an affected building’.

81 Amendment of s 453 (Entry of land—search, test, sample etc. for release of contaminant)

(1) Section 453(1) and (2)—

omit, insert—

‘(1) This section applies if an authorised person believes on reasonable grounds that unlawful environmental harm has been caused by the release of a contaminant into the environment.’.

(2) Section 453(3), ‘An’—

omit, insert—

‘The’.

(3) Section 453(4), ‘subsection (3)’—

omit, insert—

‘subsection (2)’.

(4) Section 453(3) and (4)—

renumber as section 453(2) and (3).

(5) Section 453—

insert—

‘(4) In this section—

land means a parcel of land other than any part on which a building is erected.’.

82 Amendment of s 455 (Entry of land for access)

Section 455(1) and (6), after ‘section 452’—

[s 83]

insert—

‘, 453’.

83 Amendment of s 456 (Warrants)

Section 456(5)(a), ‘that the’—

omit, insert—

‘that any authorised person or a stated’.

84 Amendment of s 465 (Power to require answers to questions)

(1) Section 465(2), from ‘may’—

omit, insert—

‘may—

- (a) require the person to answer a question about the suspected offence; or
- (b) by written notice given to the person, require the person to attend a stated reasonable place at a stated reasonable time, to answer questions about the suspected offence.’.

(2) Section 465—

insert—

‘(4) A notice given under subsection (2)(b) must—

- (a) identify the suspected offence; and
- (b) state that the authorised person believes the person may be able to give information about the suspected offence; and
- (c) include the warning required to be given under subsection (3).’.

85 Amendment of s 473 (Failure to help authorised person—emergency)

(1) Section 473(3) and (5), ‘person’—

omit, insert—

‘individual’.

- (2) Section 473(3), after ‘producing of a document’—

insert—

‘by an individual’.

- (3) Section 473(4), ‘the person’—

omit, insert—

‘the individual’.

- (4) Section 473(4)(c), ‘either’—

omit, insert—

‘any’.

- (5) Section 473(4)(c) and (5), after first dot point—

insert—

• section 480A’.

- (6) Section 473(5), ‘either’—

omit, insert—

‘any’.

86 Amendment of s 476 (Failure to answer questions)

- (1) Section 476, heading, after ‘to’—

insert—

‘**attend or**’.

- (2) Section 476(1)(a), from ‘to’—

omit, insert—

‘to—

- (i) answer a question; or
- (ii) attend a stated reasonable place at a stated reasonable time, to answer questions; but’.

[s 87]

(3) Section 476(3)—

omit, insert—

‘(3) For subsection (1), it is a reasonable excuse for an individual to fail to answer a question if answering the question might tend to incriminate the individual.’

87 Amendment of s 480 (False, misleading or incomplete documents)

(1) Section 480, heading, ‘, misleading or incomplete’—

omit, insert—

‘or misleading’.

(2) Section 480(1), from ‘knows’ to ‘particular’—

omit, insert—

‘knows, or ought reasonably to know, is false or misleading in a material particular’.

(3) Section 480(2)(a)—

omit, insert—

‘(a) informs the administering authority or authorised person of the extent to which the document is false or misleading; and’.

(4) Section 480(2)(b), after ‘to the’—

insert—

‘administering authority or’.

(5) Section 480(3)—

omit, insert—

‘(3) It is enough for a complaint for an offence against subsection (1) to state the person knew, or ought reasonably to have known, the document was false or misleading, without specifying which of the following applies—

(a) the person knew it was false;

- (b) the person knew it was misleading;
- (c) the person ought reasonably to have known it was false;
- (d) the person ought reasonably to have known it was misleading.’.

88 Insertion of new s 480A

After section 480—

insert—

‘480A Incomplete documents

- ‘(1) This section applies to a person who is required under this Act to give a document to the administering authority or an authorised person.
- ‘(2) The person must not give to the administering authority or authorised person a document the person knows, or ought reasonably to know, contains incomplete information in a material particular.

Maximum penalty—1665 penalty units or 2 years imprisonment.
- ‘(3) Subsection (2) does not apply to a person who, when giving the document—
 - (a) informs the administering authority or authorised person of the extent to which the document is incomplete; and
 - (b) gives the complete information to the administering authority or authorised person if the person has, or can reasonably obtain, the information.
- ‘(4) It is enough for a complaint for an offence against subsection (2) to state the person knew, or ought reasonably to have known, the document was incomplete, without specifying whether the person knew it was incomplete or whether the person ought reasonably to have known it was incomplete.’.

[s 89]

89 Replacement of s 502 (Court may order payment of compensation etc.)

Section 502—

omit, insert—

‘502 Court may make particular orders

- ‘(1) This section applies if, in a proceeding for an offence against this Act—
- (a) the court finds the defendant has caused environmental harm by a contravention of this Act that constitutes an offence; or
 - (b) the court finds the defendant has committed an offence against any of the following—
 - (i) section 426;
 - (ii) section 426A;
 - (iii) section 427;
 - (iv) section 430;
 - (v) section 435;
 - (vi) section 435A;
 - (vii) section 440ZG.
- ‘(2) The court may, on application by the prosecution, make 1 or more of the following orders against the defendant—
- (a) a rehabilitation or restoration order;
 - (b) a public benefit order;
 - (c) an education order;
 - (d) a monetary benefit order;
 - (e) a notification order.
- ‘(3) Subsection (4) applies if the court finds that, because of the act or omission constituting the offence, another person has—
- (a) suffered loss of income; or

-
- (b) suffered a reduction in the value of, or damage to, property; or
 - (c) incurred costs or expenses in replacing or repairing property, or in preventing or minimising, or attempting to prevent or minimise, a loss, reduction or damage mentioned in paragraph (a) or (b).
- ‘(4) In addition to any order the court makes under subsection (2), the court may, on application by the prosecution, order the defendant to do either or both of the following—
- (a) pay to the other person an amount of compensation the court considers appropriate for the loss, reduction or damage suffered, or costs or expenses incurred;
 - (b) take stated remedial action the court considers appropriate.
- ‘(5) An order under this section must state the time within which the order must be complied with.
- ‘(6) This section does not limit the court’s powers under the *Penalties and Sentences Act 1992* or any other law.
- ‘(7) In this section—

education order means an order requiring the person against whom it is made to conduct a stated advertising or education campaign to promote compliance with this Act.

monetary benefit order means an order requiring the person against whom it is made to pay an amount representing any financial or other benefit the person has received because of the act or omission constituting the offence in relation to which the order is made.

Example of a monetary benefit order—

If a defendant is found to have carried out an environmentally relevant activity without an environmental authority, the court may order the defendant to pay the administering authority an amount equal to the annual fees for the period for which the activity was carried out without an environmental authority.

[s 89]

notification order means an order requiring the person against whom it is made to notify in a stated way a person, or class of persons, of—

- (a) the act or omission constituting the offence in relation to which the order is made; and
- (b) other stated information about the act or omission.

Examples of ways the notification may be required to be given to particular persons—

- by publishing the notification in the person’s annual report
- by giving the notification to persons affected by the act or omission

public benefit order means an order requiring the person against whom it is made to carry out a stated project to restore or enhance the environment in a public place or for the public benefit.

rehabilitation or restoration order means an order requiring the person against whom it is made to take stated action to rehabilitate or restore the environment that was adversely affected because of the act or omission constituting the offence in relation to which the order is made.

‘502A Administering authority may take action and recover costs

- ‘(1) This section applies if an order is made against a person under section 502, and the person fails to comply with the order within the time stated in the order.
- ‘(2) The administering authority may carry out work or take any other action reasonably necessary to fulfil the requirements of the order.
- ‘(3) The costs reasonably incurred by the administering authority in carrying out work or taking other action under subsection (2) are a debt payable by the person to the administering authority.’.

90 Amendment of s 530 (Decision for other appeals)

Section 530(5), ‘section 569 and’—
omit.

91 Amendment of s 552 (What is the *application date* for application or TEP submission)

(1) Section 552(3), ‘that day’—

omit, insert—

‘the day the application or submission is made’.

(2) Section 552(4)—

renumber as section 552(6).

(3) Section 552—

insert—

‘(4) Also, subsection (5) applies for a TEP submission if, within 8 business days after the day the submission is made, the authority—

(a) advises the person who made the submission that the TEP or proposed amended TEP to which the submission relates does not contain or provide for a matter mentioned in section 331; and

(b) requires the person to—

(i) amend the submission so the TEP or proposed amended TEP complies with section 331; and

(ii) resubmit the submission to the authority.

‘(5) The *application date* is—

(a) the day that is 10 business days after the day the amended TEP submission is submitted to the authority;
or

(b) if, within 8 business days after the day the amended TEP submission is submitted to the authority, the authority requires additional information relating to the amended

[s 92]

TEP submission—the day the authority states as the application date in a written notice given by it to the person.’.

(4) Section 552(6), as renumbered, ‘in the notice’—
omit, insert—
‘in a notice given to the person under this section’.

(5) Section 552—
insert—

‘(7) In this section—
person, in relation to a TEP submission, includes a public authority.

TEP means a transitional environmental program.’.

92 Omission of ch 12, pt 3 (Exemption from disclosure)

Chapter 12, part 3—
omit.

93 Insertion of new ch 13, pt 17

Chapter 13—
insert—

**‘Part 17 Transitional provisions for the
Environmental Protection and
Other Legislation Amendment
Act 2011**

‘666 Definitions for pt 17

‘In this part—
amending Act means the *Environmental Protection and Other
Legislation Amendment Act 2011*.

commencement means commencement of this section.

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

‘667 Existing EISs

- ‘(1) This section applies to an EIS submitted under section 47 before the day this section commences, for which the chief executive has not made a decision under section 49 on the day this section commences.
- ‘(2) The EIS must be considered under this Act even though a fee has not been paid as required under section 47(2) as in force immediately after the day this section commences.

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

- ‘(1) This section applies to an application under section 73D made before the commencement that has not been decided at the commencement.
- ‘(2) The application must be decided under the unamended Act.
- ‘(3) For subsection (2), the unamended Act continues in effect as if it had not been amended by the amending Act.

‘669 Registration to carry out chapter 4 activity

- ‘(1) This section applies if—
 - (a) before the commencement, the administering authority issued a registration certificate to a person and, at the commencement, the person does not have a development permit; or
 - (b) the administering authority issues a registration certificate to a person under the unamended Act as applied by section 668, and the person does not have a development permit.

[s 93]

- ‘(2) Section 73G as in force immediately before the commencement applies in relation to the registration certificate.

‘670 Existing non-code compliant application for a level 1 mining project

- ‘(1) This section applies to an environmental authority (mining lease) application made before the commencement if—
 - (a) it is a non-code compliant application for a level 1 mining project; and
 - (b) the Land Court has, under section 222 of the unamended Act, given a recommendation to the MRA Minister; and
 - (c) at the commencement, the EPA Minister has not decided the application.
- ‘(2) Sections 224 and 225 of the unamended Act continue to apply in relation to the application as if the sections had not been amended by the amending Act.

‘671 Existing draft transitional environmental programs

- ‘(1) This section applies to a draft transitional environment program submitted under section 332 or 333 before the commencement if, at the commencement, the administering authority has not decided whether to approve it.
- ‘(2) The administering authority must consider, or continue to consider, the draft transitional environment program and decide whether to approve it under the unamended Act.
- ‘(3) For subsection (2), the unamended Act continues in effect as if it had not been amended by the amending Act.

‘672 Transitional environmental programs

‘A transitional environmental program in force at the commencement, or approved under the unamended Act as applied by section 671, continues in effect even if it does not

comply with section 331 as in force immediately after the commencement.

‘673 Existing application for disclosure exemption

- ‘(1) This section applies to an application for a disclosure exemption made under section 564 of the unamended Act before the commencement that has not been decided at the commencement.
- ‘(2) At the commencement, the application is taken to have been withdrawn.

‘674 Existing reviews and appeals about disclosure exemptions

- ‘(1) Subsection (2) applies to an application for a review of an original decision mentioned in schedule 2, part 1, division 5 of the unamended Act that—
 - (a) was made under section 521 before the commencement; and
 - (b) has not been decided at the commencement.
- ‘(2) At the commencement, the application is taken to have been withdrawn.
- ‘(3) Subsection (4) applies to an appeal against a review decision for an original decision mentioned in schedule 2, part 1, division 5 of the unamended Act that—
 - (a) was made under section 524 before the commencement; and
 - (b) has not been decided at the commencement.
- ‘(4) At the commencement—
 - (a) the appeal is taken to have been withdrawn; and
 - (b) if the Land Court has started to hear the appeal, the Land Court must stop hearing the appeal.

[s 94]

‘675 Existing disclosure exemptions

- ‘(1) This section applies to a disclosure exemption granted under the unamended Act.
- ‘(2) Chapter 12, part 3 of the unamended Act continues to apply in relation to the disclosure exemption as if this Act had not been amended by the amending Act.’.

94 Amendment of sch 2 (Original decisions)

Schedule 2, part 1, division 5—
omit.

95 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *disclosure exemption*, *exempted material* and *mobile and temporary environmentally relevant activity*—

omit.

- (2) Schedule 4—

insert—

‘amending Act, for chapter 13, part 17, see section 666.

commencement, for chapter 13, part 17, see section 666.

development permit means a development permit as defined under the Planning Act.

environmental standard means—

- (a) an environmental standard (however called) set out, or otherwise provided for, in a regulation under this Act; or
- (b) an outcome or objective that is directed at protecting or enhancing environmental values set out in an environmental protection policy.

mobile and temporary environmentally relevant activity means a chapter 4 activity, other than an activity that is dredging material, extracting rock or other material, or the incinerating of waste—

[s 97]

97 Amendment of s 62 (Issue of warrant)

Section 62(2)(b), after ‘that’—

insert—

‘any inspector or’.

98 Amendment of s 65 (Warrants—procedure before entry)

Section 65(1)—

omit, insert—

‘(1) This section applies if an inspector is intending to enter a place under a warrant issued under this part.’.

99 Insertion of new ss 145A and 145B

After section 145—

insert—

‘145A Chief executive’s general powers

‘(1) The chief executive may do any thing the chief executive reasonably considers is necessary to administer, or achieve the object of, this Act, including, for example—

- (a) enter or use a marine park for a prohibited purpose within the meaning of section 43(3); or
- (b) take a cultural or natural resource of a marine park.

‘(2) To remove any doubt, it is declared that the chief executive does not require an authority under this Act to carry out an activity authorised under subsection (1).

‘145B Entry or use by authorised persons without permission or giving notice

‘An authorised person may, without a permission and without giving the chief executive notice, enter or use a part of a marine park to carry out activities relating to the management of the park.

*Examples of activities relating to the management of the part—
carrying out research, works, or an education program’.*

100 Insertion of new s 147A

After section 147—

insert—

‘147A Immunity from prosecution

- ‘(1) An inspector is not liable to be prosecuted for an offence against this Act for anything done or omitted to be done—
- (a) under a direction given by the Minister or chief executive for the purposes of this Act; or
 - (b) in the exercise of a power or performance of a function conferred or imposed on the inspector under this Act.
- ‘(2) A person acting under a direction given by the Minister, the chief executive or an inspector for the purposes of this Act is not liable to be prosecuted for an offence against this Act for anything done or omitted to be done under the direction.’.

Part 6 Amendment of Nature Conservation Act 1992

101 Act amended

This part amends the *Nature Conservation Act 1992*.

Note—

See also the schedule.

102 Amendment of s 29 (Dedication of protected areas)

Section 29(1), from ‘or a forest reserve’ to ‘*Land Act 1994*’—
omit.

[s 103]

103 Amendment of s 148 (Monitoring warrants)

Section 148(4)(a), ‘authorise the’—

omit, insert—

‘authorise any conservation officer or a stated’.

104 Amendment of s 149 (Offence related warrants)

Section 149(4)(a), ‘authorise the’—

omit, insert—

‘authorise any conservation officer or a stated’.

105 Amendment of s 175 (Regulation-making power)

(1) Section 175(2)(o) to (r)—

renumber as section 175(2)(p) to (s).

(2) Section 175(2)—

insert—

‘(o) the matters in respect of which royalties are payable under this Act, the amounts of the royalties, the persons who are liable to pay the royalties, when the royalties are payable, and the recovery of any amount of the royalties not paid;’.

Part 7 Amendment of Queensland Heritage Act 1992

106 Act amended

This part amends the *Queensland Heritage Act 1992*.

Note—

See also the schedule.

107 Amendment of s 34 (Changing entries in register)

- (1) Section 34(1), ‘registered place’—
omit, insert—
‘Queensland heritage place’.
- (2) Section 34(1)(b)—
omit, insert—
‘(b) corrects, updates or otherwise varies the information that identifies the location and boundaries of the place; or’.
- (3) Section 34(2)—
omit, insert—
- ‘(2) However, the chief executive must not, without the written agreement of the owner of a Queensland heritage place and the council—
- (a) change information that identifies a boundary for the place under subsection (1)(b); or
- (b) change a statement mentioned in section 31(3)(e), (f) or (g) under subsection (1)(c).’.

108 Amendment of s 36 (Applying to enter place in, or remove place from, register)

Section 36(2)(c)(ii)—

omit, insert—

‘(ii) information about the history of the place, including, for example, copies of photographs, maps, plans, historical titles information and other relevant publications, to support the statement mentioned in subparagraph (i); and’.

109 Amendment of s 44 (Chief executive to give heritage recommendation to council)

- (1) Section 44(1), from ‘or removed from’—

[s 110]

omit, insert—

‘removed from (with or without variation) or stay on the Queensland heritage register.’.

- (2) Section 44(4)(b), after ‘register’—

insert—

‘, with or without variation’.

110 Insertion of new pt 4, div 4A

Part 4—

insert—

‘Division 4A Destroyed place recommendations

‘46A Chief executive may give destroyed place recommendation

- ‘(1) The chief executive may, whether or not on application by a person, give the council a written recommendation (a ***destroyed place recommendation***) that a State heritage place be removed from the register if—
- (a) the place has been—
 - (i) completely or substantially destroyed by fire or natural disaster; or
 - (ii) wholly or substantially demolished by development carried out under a development approval or a recommendation under section 71(6); and
 - (b) the chief executive considers the place no longer satisfies any of the cultural heritage criteria; and
 - (c) the chief executive has consulted with the owner of the place about the proposed recommendation.
- ‘(2) The destroyed place recommendation must be accompanied by—

- (a) details of the complete or substantial destruction or the whole or substantial demolition; and
- (b) reasons why the chief executive considers the place no longer satisfies any of the cultural heritage criteria; and
- (c) details of how the owner of the place was consulted with under subsection (1)(c), and the outcome of the consultation.’.

111 Amendment of s 47 (Council’s role in relation to heritage recommendations)

- (1) Section 47, heading, after ‘heritage’—
insert—
‘**or destroyed place**’.
- (2) Section 47, after ‘recommendation’—
insert—
‘or destroyed place recommendation’.

112 Amendment of s 48 (Council may seek further information)

Section 48, from ‘for an application’—
omit, insert—
‘or destroyed place recommendation for a State heritage place, the council may ask a person or other entity the council considers appropriate to make written representations to the council about the place.’.

113 Amendment of s 54 (Notice of council’s decision)

Section 54(2)(a)—
omit, insert—
‘(a) publish the decision, and notice of the day it was made, in the gazette; and’.

[s 114]

114 Insertion of new pt 4, div 5, sdiv 4

Part 4, division 5—

insert—

‘Subdivision 4 Decisions on destroyed place recommendations

‘56A Council to make decision on destroyed place recommendation

- ‘(1) The council must, within 60 days after receiving a destroyed place recommendation for a place, decide to either—
- (a) remove the place from the register; or
 - (b) leave the place on the register, with or without variation.
- ‘(2) The council may decide to remove a State heritage place the subject of a destroyed place recommendation from the Queensland heritage register, only if the council considers—
- (a) the place has been—
 - (i) completely or substantially destroyed by fire or natural disaster; or
 - (ii) wholly or substantially demolished by development carried out under a development approval or a recommendation under section 71(6); and
 - (b) the place does not satisfy any of the cultural heritage criteria; and
 - (c) the owner of the place has been consulted about the removal.
- ‘(3) Immediately after making a decision on a destroyed place recommendation, the council must advise the chief executive of the decision and the day it was made.
- ‘(4) Within 10 business days after receiving the advice, the chief executive must—

-
- (a) publish the decision, and notice of the day it was made, in the gazette; and
 - (b) give notice of the decision to—
 - (i) the owner of the place; and
 - (ii) the local government for the area in which the place is situated.’.

115 Amendment of s 67 (Notice of council’s decision)

Section 67(2)(a)—

omit, insert—

- ‘(a) publish the decision, and notice of the day it was made, in the gazette; and’.

116 Amendment of s 87 (Chief executive may give notice about essential maintenance work)

- (1) Section 87(1)(b), ‘or vandalism’—

omit, insert—

‘, vandalism or insects’.

- (2) Section 87(7), examples, at the end—

insert—

- taking steps for managing or eradicating termites or other insects’.

117 Amendment of s 122 (Changing entries in register)

- (1) Section 122(1)(b)—

omit, insert—

‘(b) corrects, updates or otherwise varies the information that identifies the location and boundaries of the place; or’.

- (2) Section 122(2)—

omit, insert—

[s 118]

- ‘(2) However, the local government must not, without the written agreement of the owner of a place—
- (a) change information that identifies a boundary for the place under subsection (1)(b); or
 - (b) change a statement mentioned in section 114(b) for the place under subsection (1)(c).’.

118 Amendment of s 136 (Issue of warrant)

Section 136(2)(a), after ‘that’—

insert—

‘any authorised person or’.

119 Amendment of s 138 (Warrants—procedure before entry)

Section 138(1)—

omit, insert—

- ‘(1) This section applies if an authorised person is intending to enter a place under a warrant issued under this part.’.

120 Amendment of s 142 (Seizing evidence at a place that may only be entered with consent or warrant)

Section 142(1)(b), after ‘consent or’—

insert—

‘under a’.

121 Insertion of new pt 15, div 3

Part 15—

insert—

**‘Division 3 Transitional provision for
Environmental Protection and Other
Legislation Amendment Act 2011**

‘195 References to registered place

‘(1) In an Act or document, a reference to a registered place under the unamended Act is taken to be a reference to a Queensland heritage place under this Act.

‘(2) In this section—

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

122 Amendment of schedule (Dictionary)

(1) Schedule, definition *registered place*—
omit.

(2) Schedule—
insert—

‘destroyed place recommendation, for a State heritage place, see section 46A(1).

Queensland heritage place means a State heritage place, an archaeological place or a protected area.’.

**Part 8 Amendment of Recreation
Areas Management Act 2006**

123 Act amended

This part amends the *Recreation Areas Management Act 2006*.

[s 124]

124 Amendment of s 19 (Public notice of draft management plan)

Section 19(6)—

omit, insert—

- ‘(6) The fee must not be more than the reasonable cost incurred by the chief executive for printing the copy and giving it to the person.
- ‘(7) For subsection (6), if the person asks for the copy to be mailed to the person, the fee may include the reasonable cost of mailing the copy to the person.’.

125 Amendment of s 26 (Public notice of draft amendment)

Section 26(5)—

omit, insert—

- ‘(5) The fee must not be more than the reasonable cost incurred by the chief executive for printing the copy and giving it to the person.
- ‘(6) For subsection (5), if the person asks for the copy to be mailed to the person, the fee may include the reasonable cost of mailing the copy to the person.’.

126 Amendment of s 32 (Public access to approved management plans)

Section 32(3)—

omit, insert—

- ‘(3) The fee must not be more than the reasonable cost incurred by the chief executive for printing the copy and giving it to the person.
- ‘(4) For subsection (3), if the person asks for the copy to be mailed to the person, the fee may include the reasonable cost of mailing the copy to the person.’.

127 Amendment of s 88 (Term and review of commercial activity agreements)

Section 88, ‘10 years’—

omit, insert—

‘15 years’.

128 Amendment of s 111 (Unlawfully conducting commercial activity)

(1) Section 111(1), from ‘unless’ to ‘agreement.’—

omit, insert—

‘unless—

(a) the person is authorised to conduct the activity under—

(i) a commercial activity permit; or

(ii) a commercial activity agreement; or

(b) all of the following apply—

(i) the activity consists of only filming or photography, or filming and photography;

(ii) no more than 2 people are involved in conducting the activity;

(iii) no prescribed structures are used in conducting the activity.’.

(2) Section 111(2), penalty, ‘for subsection (2)’—

omit.

(3) Section 111—

insert—

‘(3) In this section—

prescribed structure means equipment or a construction used to facilitate filming or photography, and—

(a) includes a tower, platform, generator, vehicle, shelter and building; but

[s 129]

- (b) does not include—
 - (i) a camera or camera accessories; or
 - (ii) a tripod; or
 - (iii) a portable hide large enough to shelter only one person; or
 - (iv) a power source consisting of only dry cells or a single wet cell battery; or
 - (v) a vehicle used only for transport or camping under a permit or commercial activity agreement.’.

129 Amendment of s 114 (Unauthorised structures and works)

Section 114—

insert—

‘(3) Also, subsection (1) does not apply to a tripod, or a portable hide large enough to shelter only one person, that is used for conducting a prescribed filming or photography activity.

‘(4) In this section—

prescribed filming or photography activity means an activity consisting of only filming or photography if no more than 2 people are involved in conducting the activity.’.

130 Amendment of s 115 (Unlawful lighting of fires)

(1) Section 115(1) and (2), after ‘light’—

insert—

‘, keep or use’.

(2) Section 115(2) and (4)(a), after ‘lighting’—

insert—

‘, keeping or using’.

131 Amendment of s 153 (Issue of warrant)

Section 153(2)(b), after ‘that’—

insert—

‘any authorised officer or’.

132 Amendment of s 156 (Warrants procedure before entry)

Section 156(1)—

omit, insert—

‘(1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this part.’.

133 Amendment of s 163 (Power to stop persons)

Section 163(1)(a), ‘finds the person’—

omit, insert—

‘reasonably suspects the person is’.

**Part 9 Amendment of Torres Strait
Islander Cultural Heritage Act
2003**

134 Act amended

This part amends the *Torres Strait Islander Cultural Heritage Act 2003*.

135 Amendment of s 131 (Issue of warrant)

Section 131(2)(a), after ‘that’—

insert—

‘any authorised officer or’.

[s 136]

136 Amendment of s 133 (Warrants—procedure before entry)

Section 133(1)—

omit, insert—

- ‘(1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this part.’.

137 Amendment of s 138 (Seizing evidence at a place that may only be entered with consent or warrant)

Section 138(1)(b), after ‘consent or’—

insert—

‘under a’.

Part 10 Amendment of Water Supply (Safety and Reliability) Act 2008

138 Act amended

This part amends the *Water Supply (Safety and Reliability) Act 2008*.

139 Amendment of s 415 (Issue of warrant)

Section 415(2)(b), after ‘that’—

insert—

‘any authorised officer or’.

140 Amendment of s 418 (Warrants—procedure before entry)

Section 418(1)—

omit, insert—

‘(1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this part.’.

141 Amendment of s 422 (Seizing evidence)

Section 422(3), ‘with’—

omit, insert—

‘under’.

Part 11 Other amendments

142 Acts amended in schedule

The schedule amends the Acts it mentions.

Schedule Amendment of other Acts

section 142

Environmental Protection Act 1994

- 1 Section 470(3), ‘person’—**
omit, insert—
‘individual’.

- 2 Section 474(3), ‘person’—**
omit, insert—
‘individual’.

- 3 Schedule 4, definition *cattle*—**
omit, insert—
‘*cattle*, for chapter 4A, see section 77.’.

Forestry Act 1959

- 1 Section 34B, heading, ‘Motor Vehicles Control Act’—**
omit, insert—
‘**Transport Operations (Road Use Management) Act 1995**’.

- 2 Schedule 3, definition *public purposes*—**
omit, insert—

‘public purposes means any purposes included within the definition of the term *public purpose* under the *Land Act 1994*, schedule 6.’.

Marine Parks Act 2004

- 1 Section 4—**
omit.

- 2 Sections 136(4)(b), ‘purpose’—**
omit, insert—
‘offence’.

Mineral Resources Act 1989

- 1 Sections 319(2) and 319A(4)(b), ‘registered place’—**
omit, insert—
‘Queensland heritage place’.

Nature Conservation Act 1992

- 1 Section 70E(1), ‘Council, may’—**
omit, insert—
‘Council may,’.

- 2 Section 74(c), before ‘prohibit’—**
insert—
‘to’.
- 3 Section 88(3), ‘subsection (1)’—**
omit, insert—
‘subsection (2)’.
- 4 Section 95(4), ‘The person’—**
omit, insert—
‘A person’.
- 5 Section 100A(2)(b), ‘authorise’—**
omit, insert—
‘authorising’.
- 6 Section 100B(4), definition *recovery plan*, example, after ‘Biodiversity’—**
insert—
‘*Conservation*’.
- 7 Section 101, definition *protected area*, ‘Wet Tropics Area’—**
omit, insert—
‘wet tropics area’.
- 8 Section 127(1), editor’s note—**
omit, insert—

Note—

Under the *Police Powers and Responsibilities Act 2000*, section 13, a police officer may be appointed as a conservation officer only with the written approval of the commissioner of the police service.’.

9 Section 167, ‘(1)’—

omit.

Queensland Heritage Act 1992

1 Section 2(2)(d) and (e), part 6 heading, and section 75(2), ‘registered places’—

omit, insert—

‘Queensland heritage places’.

2 Section 52(1), ‘relation it’—

omit, insert—

‘relation to it’.

3 Sections 70, 71(1)(a), 72(1), (3) and (4), definition *relevant person*, 75(1), 76, 78(a), 80(1) and (3)(a), 81, 92(1), 126(1)(b)(ii), 169(4), definition *offence*, paragraph (b), 170(1) and (6), definition *offence*, paragraph (b) and 173(1)(b), ‘registered place’—

omit, insert—

‘Queensland heritage place’.

Sustainable Planning Act 2009

- 1** **Schedule 3, definition *Queensland heritage place*—**
omit, insert—
*‘Queensland heritage place see the *Queensland Heritage Act 1992*, schedule.’.*

Transport Infrastructure Act 1994

- 1** **Sections 85B(1), 93A(1) and 283ZV(4), definition *Queensland heritage place*, ‘registered place’—**
omit, insert—
‘Queensland heritage place’.

Urban Land Development Authority Act 2007

- 1** **Section 42(2)(b), ‘registered place’—**
omit, insert—
‘Queensland heritage place’.