



Queensland

Environmental Protection and Other Legislation Amendment Act 2023

Act No. 6 of 2023

An Act to amend the Environmental Protection Act 1994, the Environmental Protection Regulation 2019, the Land Title Act 1994, the Waste Reduction and Recycling Act 2011 and the Wet Tropics World Heritage Protection and Management Act 1993 for particular purposes

[Assented to 5 April 2023]



Queensland

Environmental Protection and Other Legislation Amendment Act 2023

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The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Environmental Protection and Other Legislation Amendment Act 2023*.

2 Commencement

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

- (a) part 3;
- (b) sections 102 and 121;
- (c) section 125(2), to the extent it inserts definition *body-worn camera*;
- (d) sections 140 and 141.

Part 2 Amendment of Environmental Protection Act 1994

3 Act amended

This part amends the *Environmental Protection Act 1994*.

Note—

See also the amendments in schedule 1.

4 Amendment of s 16 (Material environmental harm)

(1) Section 16—

insert—

[s 5]

- (1A) The chief executive must ensure a threshold amount calculated under subsection (3), definition *threshold amount*, paragraph (b) is published on the department's website during the financial year to which it relates.
- (2) Section 16(2), definition *threshold amount*—
omit.
- (3) Section 16(2)—
insert—
- threshold amount*** means—
- (a) for the financial year ending 30 June 2023—
\$10,000; or
- (b) for a later financial year—the threshold amount for the financial year immediately preceding the later financial year (the ***previous financial year***) increased by the consumer price index for the previous financial year.
- (4) Section 16(1A) and (2)—
renumber as section 16(2) and (3).

5 Amendment of s 17 (Serious environmental harm)

- (1) Section 17—
insert—
- (1A) The chief executive must ensure a threshold amount calculated under subsection (3), definition *threshold amount*, paragraph (b) is published on the department's website during the financial year to which it relates.
- (2) Section 17(2), definition *threshold amount*—
omit.
- (3) Section 17(2)—

insert—

threshold amount means—

- (a) for the financial year ending 30 June 2023—
\$100,000; or
- (b) for a later financial year—the threshold amount for the financial year immediately preceding the later financial year (the ***previous financial year***) increased by the consumer price index for the previous financial year.

- (4) Section 17(1A) and (2)—

renumber as section 17(2) and (3).

6 Amendment of s 39 (Other definitions)

- (1) Section 39, definition *draft terms of reference*, after ‘section 41’—

insert—

or resubmitted under section 41B

- (2) Section 39, definition *environmental management plan*—
omit.

7 Amendment of s 40 (Purposes)

- (1) Section 40(d)—

omit.

- (2) Section 40(e) to (h)—

renumber as section 40(d) to (g).

8 Amendment of s 41 (Submission)

Section 41(3)—

insert—

[s 9]

- (e) a summary of the potential adverse environmental impacts of the project, and the measures proposed to avoid or minimise the adverse impacts.

9 Insertion new ss 41A and 41B

After section 41—

insert—

41A Decision on draft terms of reference

- (1) The chief executive must, within 15 business days after the draft terms of reference is submitted—
 - (a) review the draft and any documents accompanying the draft; and
 - (b) decide whether to allow the draft to proceed to public notification under subdivision 2; and
 - (c) give the proponent a notice under subsection (4) or section 42(1).
- (2) The period mentioned in subsection (1) may be extended if, before the decision is made, the proponent agrees in writing to the extension.
- (3) The chief executive must refuse to allow the draft to proceed to public notification if, having regard to the draft—
 - (a) the chief executive is satisfied it is unlikely the project could proceed under this Act or another law, including, for example, because the project—
 - (i) would contravene a law of the Commonwealth or the State; or
 - (ii) would give rise to an unacceptable risk of serious or material environmental harm; or

- (iii) would have an unacceptable adverse impact on a matter of State environmental significance or a matter of national environmental significance; or
 - (iv) would have an unacceptable adverse impact on an area of cultural heritage significance; or
 - (b) the chief executive is required to refuse to allow the draft to proceed under a regulatory requirement.
- (4) If the chief executive refuses to allow the draft to proceed to public notification, the chief executive must give the proponent an information notice for the decision that also states—
- (a) if the proponent has not previously resubmitted the draft under section 41B— that the proponent may resubmit an amended draft terms of reference for a decision under section 41B within 20 business days after the notice is given or, if the chief executive agrees to a different period, the different period; or
 - (b) if the proponent has previously resubmitted the draft under section 41B—
 - (i) that the proponent can not further resubmit the draft terms of reference; but
 - (ii) the proponent may submit a new draft terms of reference under section 41 in relation to the project.

41B Proponent may resubmit draft terms of reference

- (1) This section applies if the chief executive refuses,

[s 10]

under section 41A, to allow the draft terms of reference to proceed.

- (2) The proponent may resubmit, with changes, the submitted draft terms of reference to the chief executive within—
 - (a) 20 business days after the information notice for the decision is given under section 41A(4); or
 - (b) if the chief executive and the proponent have, within the 20 business days, agreed to a different period—the different period.
- (3) The proponent may resubmit the draft under this section only once.
- (4) Section 41A applies in relation to the resubmitted draft terms of reference.
- (5) Nothing in this section prevents the proponent from submitting a new draft terms of reference under section 41 in relation to the same project.

10 Amendment of s 42 (Preparation of TOR notice)

Section 42(1), from ‘The chief executive’ to ‘submitted,’—
omit, insert—

If, under section 41A(1)(b), the chief executive decides to allow the draft terms of reference to proceed to public notification, the chief executive must

11 Amendment of s 49 (Decision on whether EIS may proceed)

- (1) Section 49(1) to (3)—

omit, insert—

- (1) The chief executive must consider the submitted EIS and, within 20 business days after the EIS is

submitted (the *decision period*), decide to—

- (a) allow the submitted EIS to proceed under division 4, with or without conditions; or
 - (b) refuse to allow the submitted EIS to proceed.
- (2) The chief executive may extend the decision period by up to 12 months if—
- (a) the proponent agrees in writing to the extension; and
 - (b) the chief executive has not previously extended the decision period for the submitted EIS.
- (3) The chief executive may allow the EIS to proceed only if the chief executive considers it addresses the final terms of reference in an acceptable form.
- (3A) Also, the chief executive must refuse to allow the EIS to proceed if, having regard to the submitted EIS—
- (a) the chief executive is satisfied it is unlikely the project could proceed under this Act or another law, including, for example, because the project—
 - (i) would contravene a law of the Commonwealth or the State; or
 - (ii) would give rise to an unacceptable risk of serious or material environmental harm; or
 - (iii) would have an unacceptable adverse impact on a matter of State environmental significance or a matter of national environmental significance; or

[s 11]

- (iv) would have an unacceptable adverse impact on an area of cultural heritage significance; or
 - (b) the chief executive is required to refuse to allow the EIS to proceed under a regulatory requirement.
- (2) Section 49(5B)(b), ‘before the end of the submission period for the EIS,’—
omit.
- (3) Section 49—
insert—
 - (5C) The request under subsection (5B)—
 - (a) must be in writing; and
 - (b) must require the report to be given to the chief executive within—
 - (i) a stated period of not more than 12 months; or
 - (ii) if the chief executive decides to extend the period mentioned in subparagraph (i) by not more than 6 months—the extended period.
- (4) Section 49(7)—
omit, insert—
 - (7) If the decision is to refuse to allow the EIS to proceed, or to allow the EIS to proceed on conditions, the notice must be an information notice for the decision that also states—
 - (a) if the proponent has not previously resubmitted the EIS under section 49A—that the proponent may resubmit the EIS under that section; or
 - (b) if the proponent has previously resubmitted the EIS under section 49A—that the

proponent can not further resubmit the EIS under that section.

12 Amendment of s 49A (Proponent may resubmit EIS)

(1) Section 49A(1)—

omit, insert—

(1) This section applies if—

- (a) the chief executive decides, under section 49, to refuse to allow the EIS to proceed, or to allow the EIS to proceed on conditions; and
- (b) the EIS has not previously been resubmitted under this section.

(2) Section 49A(5)(b), ‘, other than section 49(7)(d)’—

omit.

(3) Section 49A(5)(c)—

omit.

(4) Section 49A—

insert—

- (6) If the EIS is resubmitted because the chief executive decided to allow the EIS to proceed on conditions—
 - (a) without limiting section 49(3), the chief executive may allow the EIS to proceed only if the chief executive considers the conditions have been met; and
 - (b) the notice given under section 49(6) must include the decision mentioned in paragraph (a).

[s 13]

13 Omission of s 50 (Ministerial review of refusal to allow to proceed)

Section 50—

omit.

14 Amendment of s 51 (Public notification)

(1) Section 51(1)—

omit, insert—

(1) This section applies if the chief executive decides to allow an EIS to proceed and gives the proponent a notice about the decision under section 49(6).

(2) Section 51(2)(b)(i), ‘at least once in a newspaper circulating in the locality of the operational land’—

omit, insert—

on a website

(3) Section 51(4), ‘subsection (2)(c)’—

omit, insert—

subsection (2)(b) and (c)

(4) Section 51(4)(a), ‘to the Minister to review’—

omit, insert—

for a review of or appeal against

(5) Section 51(4)(b), ‘under section 50(6), as applied by section 56B(2),’—

omit, insert—

under section 56A(5), as applied by section 56AA(5),

(6) Section 51(4)(c), ‘1 year’—

omit, insert—

2 years

15 Amendment of s 56A (Assessment of adequacy of response to submission and submitted EIS)

(1) Section 56A—

insert—

(4A) The chief executive must refuse to allow the submitted EIS to proceed if, having regard to the submitted EIS—

(a) the chief executive is satisfied it is unlikely the project could proceed under this Act or another law, including, for example, because the project—

(i) would contravene a law of the Commonwealth or the State; or

(ii) would give rise to an unacceptable risk of serious or material environmental harm; or

(iii) would have an unacceptable adverse impact on a matter of State environmental significance or a matter of national environmental significance; or

(iv) would have an unacceptable adverse impact on an area of cultural heritage significance; or

(b) the chief executive is required to refuse to allow the submitted EIS to proceed under a regulatory requirement.

(2) Section 56A(6)—

omit, insert—

(6) If the decision is to refuse to allow the submitted EIS to proceed, the chief executive must give the proponent an information notice for the decision that also states—

[s 16]

- (a) if the proponent has not previously resubmitted the EIS under section 56AA—that the proponent may resubmit the EIS under that section; or
- (b) if the proponent has previously resubmitted the EIS under section 56AA—that the proponent can not further resubmit the EIS under that section.

16 Amendment of s 56AA (Proponent may resubmit EIS)

- (1) Section 56AA(1), from ‘proceed and’—

omit, insert—

proceed.

- (2) Section 56AA(5)—

omit, insert—

- (5) Section 56A applies to the resubmitted EIS and response to submission or report as if a reference in the provision to a submitted EIS or the proponent’s response to the submission or report were a reference to the resubmitted EIS or proponent’s response to the submission or report.

17 Omission of s 56B (Ministerial review of refusal to allow submitted EIS to proceed)

Section 56B—

omit.

18 Amendment of s 57 (EIS assessment report)

- (1) Section 57(1), ‘or under 50(6) as applied by section 56B(2)’—

omit, insert—

including as applied by section 56AA(5)

(2) Section 57(2)(b) and (c)—

omit, insert—

(b) otherwise—the end of the submission period.

19 Amendment of s 59 (Required content of report)

Section 59(b), ‘environmental management plan’—

omit, insert—

management, monitoring, planning or other measures for minimising adverse environmental impacts

20 Insertion of new s 59A

After section 59—

insert—

59A Lapsing of EIS assessment report

(1) An EIS assessment report for a project lapses—

(a) on the day that is 3 years after the day the chief executive gives the proponent the EIS assessment report under section 57(2); or

(b) if, before the day mentioned in paragraph (a), the chief executive extends the period mentioned in that paragraph—on the day the extended period ends.

(2) However, if the proponent applies for an environmental authority before the EIS assessment report lapses under subsection (1), the report does not lapse until—

(a) if the application for the environmental authority is refused—the application is decided and any appeal against the decision is finalised or withdrawn; or

[s 21]

- (b) if the application for the environmental authority is granted—the authority takes effect.

21 Amendment of s 125 (Requirements for applications generally)

Section 125—

insert—

- (7) Subsection (8) applies if—
 - (a) an application for a prescribed ERA is accompanied by evidence showing the main purpose of applying for the environmental authority is to conduct research into, or test, technology or processes relating to an environmentally relevant activity for which information mentioned in subsection (1)(I)(i) and (ii) is not available; and
 - (b) the application states that the term of the environmental authority applied for is 3 years or less.
- (8) Despite subsection (1), the application need not include the matters mentioned in subsection (1)(I)(i) and (ii) to the extent the information is not available.

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

Section 139(1)(a)(i), after ‘completed’—

insert—

and the EIS assessment report relating to each relevant activity has not lapsed under section 59A

23 Amendment of s 143 (EIS may be required)

(1) Section 143(1)(b)—

omit, insert—

(b) any of the following apply—

- (i) the chief executive has granted an approval for the applicant to voluntarily prepare an EIS under chapter 3, part 2 and the EIS process has not yet been completed under chapter 3, part 1;
- (ii) an EIS process for an EIS for the application has otherwise not been completed under chapter 3, part 1;
- (iii) an EIS assessment report relating to the application has lapsed under section 59A.

(2) Section 143(2), from ‘request a’—

omit, insert—

request—

- (a) if subsection (1)(b)(i) applies—a requirement that the EIS process be completed and an EIS be provided for the application; or
- (b) otherwise—a requirement that the applicant complete an EIS process and provide an EIS for the application.

(3) Section 143(3), ‘In’—

omit, insert—

If subsection (1)(b)(ii) or (iii) applies, in

[s 24]

24 Amendment of s 172 (Deciding site-specific application and approving PRCP schedule)

(1) Section 172(3)(a), after ‘conditions’—

insert—

or amendment

(2) Section 172—

insert—

(3A) The administering authority may approve the proposed PRCP schedule with amendment only to the extent the amendment is necessary to enable the administering authority to approve the schedule under section 176A(2) and (3).

(3) Section 172(3A) and (4)—

renumber as section 172(4) and (5).

25 Amendment of s 183 (Applicant may request referral to Land Court)

(1) Section 183, heading, ‘request’—

omit, insert—

give notice about

(2) Section 183(1), from ‘authority,’—

omit, insert—

authority—

(a) request that the administering authority refer the application to the Land Court; or

(b) notify the administering authority that the applicant does not intend to ask for a referral of the application to the Land Court.

(3) Section 183(2), ‘The request’—

omit, insert—

A request under subsection (1)(a)

(4) Section 183—

insert—

(2A) If the applicant gives a notice under subsection (1)(b), the applicant can not later make a request under subsection (1)(a).

(5) Section 183(2A) and (3)—

renumber as section 183(3) and (4).

26 Amendment of s 190 (Requirements for objections decision)

Section 190(2)(a), after ‘conditions’—

insert—

or amendment

27 Amendment of s 196 (Requirements for issuing environmental authority or PRCP schedule)

(1) Section 196—

insert—

(ba) if there were no submitters for the application and, after notice of the decision is given under section 181, the applicant gives written notice to the administering authority under section 183(1)(b)—within 5 business days after the applicant gives the written notice; or

(2) Section 196(ba) to (d)—

renumber as section 196(c) to (e).

28 Amendment of s 215 (Other amendments)

(1) Section 215(2)(j), ‘the amendment’—

[s 29]

omit, insert—

the issue, amendment

- (2) Section 215(2)(m), ‘division 1’—

omit, insert—

division 2

- (3) Section 215(2)—

insert—

(ma) the acceptance, withdrawal, variation, amendment or suspension of an enforceable undertaking under chapter 10, part 5;

- (4) Section 215(2)(n), example, ‘paragraph (n)’—

omit, insert—

paragraph (o)

- (5) Section 215(2)(ma) to (r)—

renumber as section 215(2)(n) to (s).

29 Amendment of s 223 (Definitions for part)

Section 223, definition *minor amendment (threshold)*, paragraph (a)—

insert—

(iii) a change that will not result in a change to the impact of the relevant activity on an environmental value; and

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

Section 225—

insert—

- (3) In addition, despite section 224, if the holder relied on section 125(8) in the application for the

environmental authority, an application can not be made to extend the term of the authority.

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

(1) Section 230, heading, ‘may’—

omit, insert—

must

(2) Section 230(2) to (5)—

omit, insert—

(2) The notice given under section 229 must state that part 4 applies to the amendment application.

32 Amendment of s 232 (Relevant application process applies)

(1) Section 232(2)—

omit, insert—

(2) However, if the amendment application is for a PRCP schedule, part 4 does not apply to the application to the extent the change—

(a) reduces the area of a non-use management area under the schedule; or

(b) is likely to reduce, or cause no change to, the impacts on environmental values caused by the activities the subject of the schedule.

(2) Section 232(3)(a), from ‘a reference to’—

omit, insert—

a reference to the later of the following—

(i) the day notice of the assessment level decision is given;

[s 33]

- (ii) the day the fee mentioned in section 228(4) is paid; and
- (3) Section 232(3A), ‘division 4’—
omit, insert—
parts 3 to 5 as applied by this section

33 Amendment of s 247 (Deciding amalgamation application)

- (1) Section 247(1), from ‘subsections’ to ‘received,’
omit, insert—
subsections (3) and (4), the administering authority must
- (2) Section 247—
insert—
 - (1A) The administering authority must decide the amalgamation application—
 - (a) within 20 business days after the day the application is received; or
 - (b) if the applicant agrees to extend the period mentioned in paragraph (a) by not more than 10 business days—within the extended period.
- (3) Section 247—
insert—
 - (4A) The conditions of the amalgamated environmental authority may vary from the conditions imposed on the existing environmental authorities—
 - (a) to the extent necessary for, or to avoid duplication because of, the amalgamation; and

(b) only if the applicant agrees in writing to the variation.

(4) Section 247(1A) to (5)—
renumber as section 247(2) to (7).

34 Amendment of s 250C (De-amalgamation)

(1) Section 250C(1), ‘Within 15 business days after receiving’—
omit, insert—

If the administering authority receives

(2) Section 250C—
insert—

(1A) The administering authority must comply with subsection (1)—

(a) within 15 business days after the day the de-amalgamation application is received; or

(b) if the applicant agrees to extend the period mentioned in paragraph (a) by a period of not more than 10 business days—within the extended period.

(3) Section 250C(3), ‘subsection (1)’—
omit, insert—

subsection (2)

(4) Section 250C—
insert—

(4) The conditions of each de-amalgamated environmental authority may vary from the conditions imposed on the environmental authority immediately before the de-amalgamation—

(a) to the extent necessary for the de-amalgamation; and

[s 35]

(b) only if the applicant agrees in writing to the variation.

(5) Section 250C(1A) to (4)—
renumber as section 250C(2) to (5).

35 Amendment of s 252 (Who may apply for transfer)

Section 252—

insert—

(2) However, an application can not be made by a holder if section 125(8) was relied on in the application for the environmental authority.

36 Insertion of new s 278B

After section 278A—

insert—

278B Effect of suspension generally

(1) The suspension of a holder's environmental authority does not affect the continued application of the following provisions in relation to the holder—

- (a) this division;
- (b) part 6;
- (c) part 10;
- (d) part 14, division 3;
- (e) chapter 7, parts 2 to 5C;
- (f) chapter 8, part 2.

(2) A reference in a provision mentioned in subsection (1)—

- (a) to the holder of an environmental authority includes a reference to the holder of the suspended authority; and
 - (b) to an environmental authority includes a reference to the suspended authority.
- (3) Also, for applying a provision mentioned in subsection (1), a reference in chapter 11, part 3—
- (a) to the holder of an environmental authority includes a reference to the holder of the suspended authority; and
 - (b) to an environmental authority includes a reference to the suspended authority.
- (4) This section does not limit a provision of this Act that, other than for this section, applies in relation to a suspended environmental authority.

37 Amendment of s 279 (Application of div 2)

Section 279, ‘or suspend’—

omit, insert—

, suspend or extend the suspension of

38 Amendment of s 283 (Notice of proposed action decision)

Section 283(4), from ‘or suspend’ to ‘or suspension’—

omit, insert—

, suspend or extend the suspension of the environmental authority because of the conviction of the holder for an offence, the cancellation, suspension or extended period of suspension

[s 39]

39 Amendment of s 284 (Steps for cancellation or suspension)

Section 284(3) and (4)—

omit, insert—

- (3) Also, if the action is suspension or an extension of suspension of an environmental authority, the administering authority must record when the suspension period or extended period of suspension starts and ends in the relevant register.
- (4) A suspension or extension of suspension of an environmental authority ends at the end of the day recorded in the relevant register as the end of the suspension period or extended period of suspension.

40 Amendment of s 284AA (Cancellation after suspension if annual fee not paid)

(1) Section 284AA(1)(b)—

omit, insert—

- (b) the action is suspension or an extension of suspension of an environmental authority for a period or extended period ending when the annual fee for the environmental authority is paid; and

(2) Section 284AA(3), after ‘suspension period’—

insert—

or extended period of suspension

41 Amendment of s 284A (Who may apply)

Section 284A—

insert—

- (2) Also, the holder of a suspended environmental authority may, at any time during the suspension,

apply to the administering authority to extend the period of the suspension (also a *suspension application*).

42 Amendment of s 284B (Requirements for suspension application)

Section 284B(2)—

omit, insert—

- (2) The nominated period of the proposed suspension or extension of suspension must be for 1, 2 or 3 years from—
 - (a) if the suspension application is for an extension of suspension—the day the existing suspension ends; or
 - (b) otherwise—the next anniversary day for the environmental authority.

43 Omission of s 284E (Restrictions on giving approval)

Section 284E—

omit.

44 Amendment of s 284F (Steps after deciding suspension application)

- (1) Section 284F(1)(a), after ‘approve the suspension’—

insert—

or extension of suspension

- (2) Section 284F(1)(a)(i)—

omit, insert—

- (i) record the decision in the appropriate register, including when the suspension or extension of suspension starts and ends; and

[s 45]

- (3) Section 284F(1)(b), after ‘suspension’—
insert—
or extension of suspension
- (4) Section 284F—
insert—
(1A) The notice given under subsection (1)(a)(ii) must include a statement about the continued application of provisions under section 278B in relation to the suspended authority.
- (5) Section 284F(2), ‘suspension period’—
omit, insert—
period of suspension or extension of suspension
- (6) Section 284F(1A) and (2)—
renumber as section 284F(2) and (3).

45 Amendment of s 284G (Termination of suspension)

- (1) Section 284G(1), ‘that has been’—
omit.
- (2) Section 284G(2)(a)(ii), ‘suspension period’—
omit, insert—
period of suspension or extension of suspension

46 Insertion of new ch 5, pt 14, div 1, sdiv 1, hdg

Before section 296—

insert—

Subdivision 1 Preliminary

47 Insertion of new ch 5, pt 14, div 1, sdiv 2, hdg

After section 297—

insert—

Subdivision 2 Applications

48 Amendment of s 299 (Administering authority may require additional information)

(1) Section 299—

insert—

(1A) The administering authority may, by written notice given to the holder, extend the period within which the administering authority may make a request under subsection (1) by no more than 10 business days.

(1B) The notice mentioned in subsection (2)—

(a) may only be given once by the administering authority for the application; and

(b) must be given before the period mentioned in subsection (1) ends.

(1C) The period within which the administering authority may make a request under subsection (1) may be further extended if the holder, at any time, agrees in writing to the further extension.

(2) Section 299(2), after ‘The notice’—

insert—

asking the holder to provide further information

(3) Section 299(1A) to (3)—

renumber as section 299(2) to (6).

49 Insertion of new ch 5, pt 14, div 1, sdiv 3 and sdiv 4, hdg

After section 299—

insert—

Subdivision 3 Changing applications

299A Meaning of *minor ERC change*

A *minor ERC change*, for an application for an ERC decision for a resource activity, is any of the following changes to the application—

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

299B Changing application

- (1) Before an ERC decision is made, the applicant may change the application by giving the administering authority written notice of the change.
- (2) However, the applicant can not change the application in a way that would result in section 298 not being complied with for the application.
- (3) A notice may be given under this section only once in relation to the application.

299C Effect on ERC decision process

- (1) The periods mentioned in section 299 and 300 are not affected by the making of a change to the application if—
 - (a) the change is a minor ERC change; or

-
- (b) the administering authority agrees in writing to this subsection applying in relation to the change.
 - (2) If subsection (1) does not apply in relation to the change, sections 299 and 300 apply in relation to the changed application as if it were a new application received by the administering authority when notice of the change was given to the administering authority under section 299B(1).

Subdivision 4 ERC decisions

50 Amendment of s 300 (Making ERC decision)

- (1) Section 300(1), ‘the application’—

omit, insert—

an application for an ERC decision for a resource activity

- (2) Section 300(3)(a)(ii), ‘under section 299’—

omit, insert—

given under section 299(1)

51 Replacement of s 305 (Effect of re-application on ERC decision)

Section 305—

omit, insert—

305 Current decision continues in force if application made but not decided before ERC period ends

- (1) This section applies if—
 - (a) a current decision is in force in relation to a resource activity; and

Part 14A Temporary authorities for emergency situations

Division 1 Preliminary

316GA Definitions for part

In this part—

emergency situation means—

- (a) an emergency for which an authorised person may give an emergency direction or take an action under section 467; or
- (b) a biosecurity event for which a biosecurity emergency order is made under the *Biosecurity Act 2014*, section 113; or
- (c) a disaster situation declared under the *Disaster Management Act 2003*, part 4; or
- (d) the following under *Fire and Emergency Services Act 1990*—
 - (i) a situation in relation to which an authorised fire officer may take measures under section 53 of that Act;
 - (ii) a state of fire emergency declared under section 87 of that Act; or
- (e) an emergency situation declared to exist under the *Public Safety Preservation Act 1986*, section 5; or
- (f) a public health emergency for which a public health emergency order is declared under the *Public Health Act 2005*; or

[s 53]

- (g) a radiation source in relation to which an inspector may exercise a power under the *Radiation Safety Act 1999*, section 148; or
- (h) a discharge, or likely discharge, of pollutant into coastal waters for which an authorised officer may exercise a power under the *Transport Operations (Marine Pollution) Act 1995*, section 95.

existing ERA, in relation to an emergency situation, means an environmentally relevant activity—

- (a) for which an environmental authority is in effect; and
- (b) that has increased or is likely to increase in intensity or scale as a result of the emergency situation; and
- (c) for which, other than for this part, either of the following would be required—
 - (i) an amendment of the environmental authority;
 - (ii) another environmental authority.

new ERA, in relation to an emergency situation, means an activity that—

- (a) before the start of the emergency situation, was not carried out, or was not an environmentally relevant activity; and
- (b) as a result of the emergency situation—
 - (i) is, or is likely to be, carried out, or has increased, or is likely to increase, in intensity or scale; and
 - (ii) becomes an environmentally relevant activity for which, other than for this part, an environmental authority would be required.

relevant ERA means either of the following activities in relation to an emergency situation—

- (a) an existing ERA;
- (b) a new ERA.

temporary authority see section 316GC(1).

316GB Exclusion of s 23 in particular circumstances

- (1) This section applies if, because of the operation of section 23 and other than for this section, a person would be required under a prevailing Act mentioned in section 23(2) to carry out a relevant ERA in relation to an emergency situation.
- (2) Neither section 23(2) nor the prevailing Act limits the application of section 426 of this Act to the person in relation to the relevant ERA.
- (3) However, it is a defence for an offence against section 426 if the person proves it would not be reasonable for the person to be required to comply with section 426, having regard to the requirement to which the person is subject under the prevailing Act.

Division 2 Temporary authorities

316GC Making application

- (1) A person may apply to the administering authority for an authority (a *temporary authority*) to carry out a relevant ERA in relation to an emergency situation on a temporary basis.
- (2) The application must—
 - (a) be in writing; and
 - (b) include a description of—

[s 53]

- (i) the emergency situation; and
 - (ii) the reasons why the activity the subject of the application is a relevant ERA in relation to the emergency situation; and
- (c) be accompanied by any documents relevant to a matter mentioned in paragraph (b).

316GD Deciding application

- (1) The administering authority must consider the application and decide to—
 - (a) grant the temporary authority; or
 - (b) refuse the temporary authority.
- (2) The administering authority may grant the temporary authority only if the administering authority is satisfied—
 - (a) the application relates to a relevant ERA in relation to an emergency situation; and
 - (b) that granting the temporary authority is a necessary and reasonable response to the carrying out, or increase in intensity or scale, of the relevant ERA as a result of the emergency situation.
- (3) If the administering authority decides to refuse the application the administering authority must, as soon as practicable after making the decision, give the applicant an information notice for the decision.

316GE Administering authority may impose conditions

- (1) This section applies if the administering authority decides to grant the temporary authority to the applicant.

- (2) The administering authority may impose on the authority the conditions the administering authority considers necessary or desirable to respond to the carrying out, or increase in intensity or scale, of the relevant ERA as a result of the emergency situation.
- (3) Before imposing conditions under subsection (2) the administering authority must notify the applicant of the following matters—
 - (a) the proposed conditions;
 - (b) that the applicant may make submissions about the proposed conditions within a stated reasonable period.
- (4) In deciding whether to impose the conditions the administering authority must have regard to any submissions made by the applicant within the stated period.
- (5) However, the administering authority need not comply with subsections (3) and (4) if the administering authority considers complying with those subsections would delay the grant of the temporary authority to the detriment of the applicant, having regard to—
 - (a) the nature and urgency of the application; and
 - (b) the emergency situation to which the application relates.

316GF Granting authority

- (1) If the administering authority decides to grant the temporary authority, the administering authority must give the temporary authority to the applicant.
- (2) The temporary authority must state—

[s 53]

- (a) the name of the applicant; and
 - (b) the relevant ERA that may be carried out under the authority; and
 - (c) any conditions imposed on the temporary authority under section 316GE; and
 - (d) the period for which the temporary authority has effect, including the days on which the period starts and ends.
- (3) The period mentioned in the temporary authority under subsection (2)(d) must—
- (a) be no longer than the period the administering authority considers necessary to respond to the carrying out, or increase in intensity or scale, of the relevant ERA as a result of the emergency situation; and
 - (b) end no later than the day that is 4 months after the day the temporary authority is granted.

316GG Effect

- (1) For the period a temporary authority is in effect for a relevant ERA—
- (a) the temporary authority is taken, other than for this chapter, to be an environmental authority for the relevant ERA; and
 - (b) if the relevant ERA is an existing ERA—
 - (i) the conditions of the temporary authority apply in addition to the conditions of the environmental authority for the existing ERA; and
 - (ii) to the extent there is an inconsistency between the conditions of the temporary authority and the conditions of the environmental authority, the

conditions of the temporary authority prevail.

- (2) More than 1 temporary authority may be granted under this division in relation to the same relevant ERA.

54 Insertion of new s 319A

After section 319—

insert—

319A Special provision for activities involving relevant industrial chemicals

- (1) This section applies to a person carrying out an activity that involves a relevant industrial chemical.
- (2) The person is taken not to comply with the general environmental duty unless the person complies with any risk management measures for the chemical under a scheduling decision under the *Industrial Chemicals Environmental Management (Register) Act 2021* (Cwlth).
- (3) Subsection (2)—
 - (a) does not limit the application of section 319 to the person; and
 - (b) applies even if the person has otherwise taken all reasonable and practicable measures to prevent or minimise environmental harm caused, or likely to be caused, by the activity.

55 Amendment of s 320A (Application of div 2)

- (1) Section 320A(2)(b)(i), from ‘the happening’ to ‘involving’—
omit, insert—

the presence of, or happening of an event

[s 56]

involving,

- (2) Section 320A(3)(a), from ‘the happening’ to ‘involving’—
omit, insert—

the presence of, or happening of an event
involving,

- (3) Section 320A(4)—
insert—

(j) a temporary emissions licence.

56 Amendment of s 320DA (Duty of owner, occupier or auditor to notify administering authority)

- (1) Section 320DA(1), ‘event or change’—
omit, insert—

matter

- (2) Section 320DA(2)(a), from ‘event’ to ‘condition’—
omit, insert—

matter

- (3) Section 320DA(2)(b)—
omit, insert—

(b) the circumstances in which the person
became aware of the matter.

57 Amendment of s 320DB (Duty of local government to notify administering authority)

- (1) Section 320DB(2), from ‘event’ to ‘land’—
omit, insert—

matter mentioned in section 320A(3)(a) or (b)

- (2) Section 320DB(2)(a), from ‘event’ to ‘condition’—
omit, insert—

matter mentioned in the section

(3) Section 320DB(2)(b)—

omit, insert—

(b) the circumstances in which the local government became aware of the matter.

58 Amendment of s 321 (What is an environmental evaluation)

Section 321(1)—

omit, insert—

(1) An environmental evaluation is an evaluation of an activity or event to decide the source, cause or extent of environmental harm being caused, or the extent of environmental harm likely to be caused, by the activity or event.

59 Amendment of s 326BA (When environmental investigation required—contamination of land)

Section 326BA(1)—

omit, insert—

(1) This section applies if—

- (a) particulars of land are recorded in the environmental management register or contaminated land register; and
- (b) the administering authority is satisfied, or suspects on reasonable grounds, the hazardous contaminant contaminating the land has the potential to cause serious environmental harm or material environmental harm; and
- (c) the administering authority is satisfied a person, animal or another part of the environment may be exposed to the

[s 60]

hazardous contaminant, whether on the land
or not.

60 Amendment of s 326F (Administering authority may request further information)

(1) Section 326F(2), after ‘may’—

insert—

within 10 business days after receiving the report

(2) Section 326F(3)—

omit, insert—

(3) The administering authority may, by written notice given to the recipient, extend the period within which the administering authority may make a request under subsection (2) by no more than 10 business days.

(3A) The notice mentioned in subsection (3)—

(a) may only be given once by the administering authority; and

(b) must be given before the period mentioned in subsection (2) ends.

(3B) The period within which the administering authority may make a request under subsection (2) may be further extended if the recipient, at any time, agrees in writing to the further extension.

(3) Section 326F(3A) to (4)—

renumber as section 326F(4) to (6).

61 Replacement of s 331 (Content of program)

Section 331—

omit, insert—

331 Requirements for applications generally

- (1) An application for the issue of a transitional environmental program must—
 - (a) be in the approved form; and
 - (b) comply with subsection (2); and
 - (c) be accompanied by the fee prescribed by regulation.
- (2) For subsection (1)(b), the application must, for the activity to which the application relates—
 - (a) state the objectives that will be achieved and maintained under the program for the activity; and
 - (b) state particular actions required to achieve the objectives, and the day by which each action will 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
 - (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, a development condition or a prescribed

[s 62]

condition for carrying out a small scale mining activity, 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.

62 Amendment and relocation of ch 7, pt 3, div 2, hdg (Submission and approval of transitional environmental programs)

- (1) Chapter 7, part 3, division 2, heading, ‘Submission and approval’—

omit, insert—

Applications for issue

- (2) Chapter 7, part 3, division 2, heading—

relocate to after section 330.

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

- (1) Section 332, heading, ‘draft’—

omit, insert—

particular entities to apply for issue of

- (2) Section 332(1) and (2), from ‘to prepare’ to ‘draft’—

omit, insert—

to apply to the administering authority for the issue of a

- (3) Section 332(4)(d), from ‘program’ to ‘authority’—

omit, insert—

person or public authority must apply to the administering authority for the issue of the program

64 Replacement of ss 333–334A

Sections 333 to 334A—

omit, insert—

333 Voluntary application for issue of transitional environmental program

A person or public authority may, at any time, apply to the administering authority for the issue of a transitional environmental program for an activity the person or public authority is carrying out or proposes to carry out.

334 Administering authority may request further information

- (1) The administering authority may, by written notice, ask the person or public authority that applied for the issue of the transitional environmental program to give further information needed to decide whether to approve the application.
- (2) The request must—
 - (a) be made within 10 business days after the application is received; and
 - (b) state that the applicant must give the information requested within 10 business days after the day the request is made (the *information response period*); and

[s 65]

- (c) state that the application will lapse under section 334A if the applicant does not give the information within the information response period.
- (3) The applicant must, within the information response period, give the administering authority the requested information.
- (4) The applicant may, by written notice given to the administering authority, ask the administering authority to extend the information response period by no more than 10 business days.

334A When application lapses

- (1) This section applies if the applicant is given a request under section 334.
- (2) The application lapses if the applicant does not, within the information response period or the further period agreed between the administering authority and the applicant, give the administering authority the requested information.

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

- (1) Section 335, heading, from ‘submission’—

omit, insert—

making of particular applications

- (2) Section 335(1)—

omit, insert—

- (1) This section applies if—
 - (a) a person or public authority makes an application for the issue of a transitional environmental program; and

-
- (b) the application states the period over which the program is to be carried out is longer than 3 years.
- (3) Section 335(2), ‘submission’—
omit, insert—
application
- (4) Section 335(2)(a), (3)(b) and (4)(b), ‘draft program’—
omit, insert—
application
- (5) Section 335(2)(b), ‘program’—
omit, insert—
application

66 Amendment of s 336 (Authority may call conference)

Section 336(1)—

omit, insert—

- (1) The administering authority may invite the person or public authority that made the application and any person who has made a submission under section 335 about the application to a conference to help the authority in deciding whether or not to approve the application.

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

- (1) Section 337, heading—

omit, insert—

337 When decision must be made—generally

- (2) Section 337(1), from ‘approve’ to ‘it’—

omit, insert—

[s 68]

approve an application for the issue of a transitional environmental program

- (3) Section 337(1)(b), ‘draft program’—

omit, insert—

application

- (4) Section 337(2)(a), ‘submitted the program’—

omit, insert—

made the application

- (5) Section 337(3), ‘submission of the draft program’—

omit, insert—

application

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

- (1) Section 338, heading, ‘draft program’—

omit, insert—

application

- (2) Section 338(1), from ‘the draft’ to ‘approval’—

omit, insert—

an application for the issue of a transitional environmental program or the conditions to be imposed on the program

- (3) Section 338(1), before paragraph (a)—

insert—

(aa) must consider whether the program sought by the application—

- (i) may allow serious environmental harm to happen or cause serious environmental harm; and

-
- (ii) will achieve full compliance with the Act for the matters dealt with by the program under section 349; and
- (4) Section 338(1)(b), ‘(a)’—
omit, insert—
(b)
- (5) Section 338(1)(b)(ii) and (iii), ‘the draft program’—
omit, insert—
the application
- (6) Section 338(1)(aa) to (b)—
renumber as section 338(1)(a) to (c).
- (7) Section 338(2), ‘(1)(b)’—
omit, insert—
(1)(c)
- (8) Section 338—
insert—
- (3) Without limiting the circumstances in which the administering authority may refuse to approve the application, the administering authority may refuse to approve the application if it considers the program sought by the application may allow serious environmental harm to happen or cause serious environmental harm.
- (4) However, the administering authority must refuse to approve the application if it considers the program sought by the application will not achieve full compliance with the Act for the matters dealt with by the program under section 349.

69 Replacement of s 339 (Decision about draft program)

Section 339—

[s 70]

omit, insert—

339 Deciding application

- (1) The administering authority must decide that an application for the issue of a transitional environmental program—
 - (a) be approved with or without the imposition of conditions on the program; or
 - (b) be refused.
- (2) If the administering authority approves the application, the administering authority—
 - (a) must impose any conditions on the transitional environmental program the authority is required to impose under a regulatory requirement; and
 - (b) may impose a condition on the program requiring the holder to give an amount of financial assurance as security for compliance with the program and any conditions of the program; and
 - (c) may impose any other conditions on the program the administering authority considers appropriate.

70 Amendment of s 340 (Notice of decision)

Section 340(1) to (3)—

omit, insert—

The administering authority must, within 8 business days after making a decision under section 339—

- (a) if the administering authority approves the application—issue the transitional environmental program to the person or public authority that made the application; and

-
- (b) if the administering authority refuses to approve the application, or approves the application and issues the program with conditions—give the person or public authority that made the application an information notice.

71 Insertion of new s 340A

After section 340—

insert—

340A Period of transitional environmental program

A transitional environmental program is in effect for the period—

- (a) starting on the day the program is issued under section 340; and
- (b) ending on the day stated in the program.

72 Replacement of s 341 (Content of approved program)

Section 341—

omit, insert—

341 Content of transitional environmental program

- (1) A transitional environmental program issued under this division must—
 - (a) contain all conditions imposed on the program by the administering authority; and
 - (b) state the day the program ends.
- (2) Also, if the activity to which the transitional environmental program relates is to transition to comply with a condition of an environmental authority (a *relevant EA condition*), the program must—
 - (a) identify the relevant EA condition; and

[s 73]

- (b) state the extent to which the holder of the program is not required to comply with the relevant EA condition.

73 Amendment of s 343 (Failure to approve draft program taken to be refusal)

- (1) Section 343, heading, ‘draft program’—

omit, insert—

application

- (2) Section 343, from ‘a transitional’ to ‘approve the program’—

omit, insert—

to approve an application for the issue of a transitional environmental program within the time it is required to make a decision on the application, the failure is taken to be a decision by the authority to refuse to approve the application

74 Amendment of s 343A (Notation of approval of transitional environmental program on particular environmental authorities)

- (1) Section 343A, heading, ‘approval’—

omit, insert—

issue

- (2) Section 343A(1), ‘for a draft’—

omit, insert—

if the administering authority issues a

- (3) Section 343A(2), from ‘If’ to ‘administering’—

omit, insert—

The administering

- (4) Section 343A(2)(a)(ii)—

omit, insert—

- (ii) that it is an offence to contravene a transitional environmental program; and

75 Amendment of s 344 (Application)

- (1) Section 344, heading, after ‘Application’—

insert—

of particular provisions

- (2) Section 344(1) and (2)—

omit, insert—

- (1) Division 2 (other than section 335(1)) applies, with all necessary changes, to an application by the holder of a transitional environmental program for an environmentally relevant activity to amend the program.
- (2) Without limiting subsection (1), if the holder makes an application for an amendment of the program that extends the period over which the program is to be carried out to longer than 5 years, section 335(2) and (3) applies to the application as if the application were for the issue of a transitional environmental program.

- (3) Section 344(4)(a), (b) and (c), ‘approval’—

omit, insert—

program

76 Amendment of s 344E (Cancelling approval)

- (1) Section 344E, heading, ‘approval’—

omit, insert—

transitional environmental program

- (2) Section 344E(1), ‘the approval for’—

omit.

[s 77]

- (3) Section 344E(1) and (2), ‘approval holder’—
omit, insert—
holder
- (4) Section 344E(2), ‘an approval’—
omit, insert—
a transitional environmental program
- (5) Section 344E(4)(b), ‘approval’—
omit, insert—
transitional environmental program
- (6) Section 344E(5), definition *details of the cancellation*,
paragraph (a), ‘approval’—
omit, insert—
transitional environmental program

77 Amendment of s 345 (Annual return)

Section 345, from ‘an approval’ to ‘of approval’—

omit, insert—

a transitional environmental program must,
within 22 business days after each anniversary of
the day of the issue

78 Amendment of s 352 (Authority to act on notice)

Section 352(1)(b)—

omit, insert—

(b) the day by which the person must make an
application under section 333 for the issue
of a transitional environmental program
dealing with the activity.

79 Amendment of s 353 (Effect of program notice)

- (1) Section 353(2)(a), ‘an approval of’—
omit.
- (2) Section 353(2)(b), ‘a draft’—
omit, insert—
an application for the issue of a
- (3) Section 353(2)(c), ‘submit a draft’—
omit, insert—
make an application for the issue of a
- (4) Section 353(3)(a), ‘draft program’—
omit, insert—
application

80 Amendment of s 357A (What is an *applicable event*)

- Section 357A, from ‘was approved’ to ‘an approved’—
omit, insert—
was issued, or when amendments to a

81 Amendment of s 363AA (Definitions for division)

- (1) Section 363AA, definition *relevant activity*, ‘environmentally relevant activity’—
omit, insert—
activity
- (2) Section 363AA, definition *relevant activity*, paragraph (b), ‘environmental harm’—
omit, insert—
serious or material environmental harm

[s 82]

82 Amendment of s 363B (Authorised person may issue a direction notice)

- (1) Section 363B(2), after ‘remedy’—
insert—
the matter relating to
- (2) Section 363B(3) and note, after ‘remedy’—
insert—
the matter relating to
- (3) Section 363B—
insert—
 - (4) A reference in this section to remedying a matter relating to a contravention of a prescribed provision includes a reference to cleaning up, fixing or rectifying environmental harm caused by the contravention.

83 Amendment of s 363D (Requirements of direction notices)

- (1) Section 363D(1)(d), after ‘remedy’—
insert—
a stated matter relating to
- (2) Section 363D(2)(a), after ‘remedy’—
insert—
the matter relating to
- (3) Section 363D(2)(c), ‘the contravention’—
omit, insert—
the matter relating to the contravention
- (4) Section 363D(3), from ‘to’—
omit, insert—
to—

- (a) remedy the matter relating to the contravention of the prescribed provision, including, for example, requiring a person to clean up, fix or rectify environmental harm caused by the contravention; or
- (b) avoid further contravention of the prescribed provision.

84 Insertion of new s 370A

After section 370—

insert—

370A References to owner

In this part, a reference to an owner includes a reference to a department that is responsible for managing land that is—

- (a) unallocated State land; or
- (b) a reserve under the *Land Act 1994* for which there is no trustee; or
- (c) a State-controlled road.

85 Amendment of s 371 (Grounds for including land in environmental management register)

Section 371, from ‘if’—

omit, insert—

if the authority—

- (a) is satisfied a notifiable activity has been, or is being, carried out on the land; or
- (b) is satisfied or suspects, on reasonable grounds, the land is contaminated land.

[s 86]

86 Amendment of ch 7, pt 8, div 2, sdiv 2, hdg (Process for including land in relevant land register)

Chapter 7, part 8, division 2, subdivision 2, heading, 'Process'—

omit, insert—

Show cause process

87 Amendment of s 373 (Application of sdiv 2)

Section 373, after 'register'—

insert—

other than on the basis of an inclusion request made by the owner of the land

88 Amendment of s 375 (Show cause notice to be given to owner of land)

Section 375(2)(a), after 'believes'—

insert—

, or suspects on reasonable grounds, that

89 Insertion of new ch 7, pt 8, div 2, sdiv 2A

After section 379—

insert—

Subdivision 2A Voluntary inclusion of land in relevant register

379A Purpose of subdivision

The purpose of this subdivision is to allow an owner of land to ask for particulars of the land to be included in a relevant land register without subdivision 2 being complied with.

379B Voluntary inclusion of land in relevant land register

- (1) An owner of land may, by written request (an *inclusion request*), ask the administering authority to include particulars of the land in a stated relevant land register.
- (2) The inclusion request must state—
 - (a) the grounds on which the owner believes the land could be included in the relevant land register and the facts and circumstances relied on in support of the grounds; and
 - (b) that the owner waives the application of subdivision 2 for the inclusion of particulars of the land in the relevant land register.

379C Administering authority may request further information

- (1) The administering authority may ask the owner, by written request, to give further information needed to assess the inclusion request within a stated reasonable period of at least 3 business days.
- (2) The request must be made within 3 business days after the inclusion request is received.

379D Deciding inclusion request

The administering authority must decide whether to approve or refuse to approve the inclusion request—

- (a) if the administering authority requests further information under section 379C—within 5 business days after the further information is received by the authority; or
- (b) otherwise—within 5 business days after the inclusion request was received.

379E Criteria for decision

- (1) In deciding whether to approve the inclusion request, the administering authority must consider—
 - (a) the grounds stated in the inclusion request and the facts and circumstances relied on in support of the grounds; and
 - (b) further information received in response to a request under section 379C; and
 - (c) the grounds for including particulars of land in the relevant land register stated in the application under section 371 or 372.
- (2) However, the administering authority may approve the inclusion request only if the administering authority is satisfied there are grounds for including particulars of the land in the relevant land register under section 371 or 372.

379F Steps after making decision

Within 5 business days after deciding the inclusion request, the administering authority must—

- (a) if the decision was to approve the inclusion request—give written notice of the decision to—
 - (a) the land’s owner; and
 - (b) the relevant local government; and
- (c) if the decision is to record particulars of the land in the contaminated land register—any registered mortgagee of the land; or
- (b) if the decision was to refuse to approve the inclusion request—give the land’s owner an information notice about the decision.

379G Notice to registrar of titles about including land in contaminated land register

The administering authority must, within 5 business days after recording particulars of land in the contaminated land register, give written notice that the particulars have been recorded to the registrar of titles.

90 Replacement of s 389 (Content of contaminated land investigation document)

Section 389—

omit, insert—

389 Content of contaminated land investigation document

- (1) This section applies to a contaminated land investigation document for relevant land.
- (2) If the contaminated land investigation document is a site investigation report or validation report, the document must be in the approved form and include—
 - (a) the following information about the relevant land—
 - (i) the reasons particulars of the land have been recorded in a relevant land register;
 - (ii) a description of all surface and subsurface infrastructure on the land, including details of the location, size and type of the infrastructure;
 - (iii) a description of the surrounding area of the land, including a description of each of the following in the surrounding area—

[s 90]

- (A) all environmentally sensitive areas;
 - (B) the location of all water, watercourses and wetlands;
 - (C) the location of all stormwater drainage;
 - (D) all uses of the land, including uses that may affect the safety of the relevant land or cause environmental harm;
 - (E) all activities carried out that may affect the safety of the relevant land or cause environmental harm;
- (iv) for waste disposed of or stored on the land that contains, or may potentially contain, hazardous contaminants—
- (A) details of the location, volume and type of the waste; and
 - (B) details of any potential contamination of the land caused by disposing of or storing the waste on the land;
- (v) a description of the geology and hydrogeology of the land;
- (vi) details of any environmentally relevant activities or notifiable activities carried out on the land, including the materials used and waste produced during the carrying out of the activities;
- (vii) details of any earthworks carried out on the land, including the materials used and waste produced during the earthworks;
- (viii) if work has been carried out on the land to remediate the contamination of the

- land—the contamination levels recorded on the land before and after the work was carried out; and
- (b) a statement (a *site suitability statement*) of the uses or activities for which the land is suitable; and
 - (c) a statement of the following matters—
 - (i) whether the land is prescribed contaminated land;
 - (ii) if the land is contaminated—the extent to which the land is contaminated.
- (3) If the contaminated land investigation document is a draft site management plan, the document must be in the approved form and include—
- (a) the following information about the relevant land—
 - (i) the proposed objectives to be achieved and maintained under the plan;
 - (ii) the proposed methods for achieving and maintaining the objectives;
 - (iii) the proposed monitoring and reporting compliance measures for the land; and
 - (b) a site suitability statement; and
 - (c) a statement of the following matters—
 - (i) whether the land is prescribed contaminated land;
 - (ii) if the land is contaminated—the extent to which the land is contaminated;
 - (iii) whether the proposed objectives, methods and measures stated in the plan under paragraph (a) are appropriate; and

[s 91]

- (d) a reference to, and a copy of, the site investigation report or validation report that relates to the draft site management plan; and
 - (e) a description of the source, cause and extent of environmental harm to be managed under the plan.
- (4) A contaminated land investigation document must be accompanied by a certification by an auditor (an *auditor's certification*) that—
- (a) is in the approved form; and
 - (b) verifies that the document complies with subsection (2) or (3).
- (5) In this section—

environmentally sensitive area means an area prescribed by regulation as an environmentally sensitive area.

prescribed contaminated land means land contaminated in a way that causes a risk of environmental harm to—

- (a) land other than the relevant land; or
- (b) human health; or
- (c) another part of the environment.

water has the meaning given under the *Water Act 2000*.

91 Amendment of s 405 (Registrar of titles to maintain records about contaminated land)

Section 405(1), after '379'—

insert—

, 379G

92 Amendment of s 432 (Contravention of requirement of program)

(1) Section 432, heading—

omit, insert—

432 Offence not to comply with program

(2) Section 432(1), from ‘an’ to ‘requirement of’—

omit, insert—

a transitional environmental program, or a person acting under a transitional environmental program, must not wilfully contravene

(3) Section 432(2), from ‘an’ to ‘requirement of’—

omit, insert—

a transitional environmental program, or a person acting under a transitional environmental program, must not contravene

(4) Section 432—

insert—

(4) A reference in this section to contravening a transitional environmental program includes a reference to contravening a condition of the program.

93 Omission of s 432A (Contravention of condition of approval)

Section 432A—

omit.

94 Amendment of s 440O (Local law may prescribe noise standards)

Section 440O(2), from ‘under’ to ‘2009’—

omit.

[s 95]

95 Amendment of s 440R (Building work)

Section 440R(2)(b), from ‘used’ to ‘purposes’—

omit, insert—

that are the person’s principal place of residence

96 Amendment of s 440S (Regulated devices)

Section 440S(1)(b), from ‘used’ to ‘purposes’—

omit, insert—

that are the person’s principal place of residence

97 Amendment of s 440ZA (Operating power boat engine at premises)

(1) Section 440ZA, heading, after ‘premises’—

insert—

, jetty or pontoon

(2) Section 440ZA(1)—

omit, insert—

(1) A person must not operate, or permit the operation of, a power boat engine during a restricted period if—

(a) the engine is at premises and the operation makes audible noise; or

(b) the engine is a part of a boat that is at a jetty or pontoon and the operation makes audible noise for a continuous period of more than 5 minutes.

(3) Section 440ZA(2)—

insert—

restricted period means—

- (a) on a business day or Saturday, before 7a.m. or after 7p.m; or
- (b) on any other day, before 8a.m. or after 6.30p.m.

98 Amendment of s 460 (General powers for places and vehicles)

Section 460(1)(f)—

insert—

Example of equipment—

an unmanned aerial vehicle or other remotely controlled device capable of recording images, video, sounds or data

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

(1) Section 465—

insert—

- (2A) Also, the authorised person may, by written notice given to a corporation, require the corporation to nominate, within a stated reasonable period, an executive officer or employee of the corporation who is authorised by the corporation to answer a question under this section as the corporation's representative.
- (2B) On a person being nominated by the corporation under subsection (3), the authorised person may by written notice given to the nominated person, require the person to attend a stated reasonable place at a stated reasonable time, to answer questions about the suspected offence.
- (2C) An answer given by a person nominated by the corporation under subsection (3) binds the corporation.

[s 100]

- (2) Section 465(3), from ‘making’ to ‘warn the person’—
omit, insert—
making a requirement under subsection (2), (3) or (4), the authorised person must warn the person of whom the requirement is made that
- (3) Section 465(4), after ‘(2)(b)’—
insert—
or (4)
- (4) Section 465(4)(c), ‘(3)’—
omit, insert—
(6)
- (5) Section 465(2A) to (4)—
renumber as section 465(3) to (7).

100 **Amendment of s 476 (Failure to attend or answer questions)**

- (1) Section 476, heading, ‘or answer questions’—
omit, insert—
, answer questions or nominate representative
- (2) Section 476(1)(a)(ii)—
omit, insert—
(ii) if the person is a corporation—nominate an executive officer or employee of the corporation to answer a question as the corporation’s representative; or
(iii) attend a stated reasonable place at a stated reasonable time, to answer questions; but

101 **Insertion of new ch 9, pt 5A**

Chapter 9—

[s 102]

- (b) may create an unacceptable level of risk to the authorised person's safety.
- (2) The chief executive may ask the commissioner of the police service for a written report about the criminal history of the relevant person that includes a brief description of the circumstances of a conviction mentioned in the criminal history.
 - (3) The commissioner of the police service must comply with the request.
 - (4) However, the duty to comply applies only to information in the commissioner's possession or to which the commissioner has access.
 - (5) The chief executive must examine the report and identify, to the extent it is reasonably practicable to do so, offences involving conduct, behaviour or circumstances that suggest the relevant person's presence at the place or vehicle may endanger the authorised person's safety.
 - (6) The chief executive may give the authorised person information in the report about the offences identified under subsection (5).
 - (7) The chief executive must ensure the report, and any information in the report given to an authorised person in writing, is destroyed as soon as practicable after the report is no longer needed for the purpose for which it was requested.

Note—

See also the confidentiality requirements in chapter 12, part 4C.

102 Insertion of new s 486A

After section 486—

insert—

486A Use of body-worn cameras

- (1) It is lawful for an authorised person to use a body-worn camera to record images or sounds while the authorised person is exercising a power under this chapter.
- (2) Use of a body-worn camera by an authorised person under subsection (1) includes use that is—
 - (a) inadvertent or unexpected; or
 - (b) incidental to use while exercising the authorised person's power.
- (3) Subsection (1) does not affect an ability the authorised person has at common law or under another Act to record images or sounds.
- (4) To remove any doubt, it is declared that subsection (1) is a provision authorising the use by an authorised person of a listening device, for the purposes of the *Invasion of Privacy Act 1971*, section 43(2)(d).

103 Amendment of s 490 (Evidentiary provisions)

- (1) Section 490—

insert—

- (5A) A map, chart or plan is evidence of the matters stated or shown in the map, chart or plan if—
 - (a) the prosecutor produces a certificate purporting to be signed by the administering executive stating that the map, chart or plan was made by an authorised person in the discharge of the authorised person's functions under this Act; and
 - (b) there is no evidence to the contrary.

- (2) Section 490(5A) to (9)—

renumber as section 490(6) to (10).

[s 104]

104 Amendment of s 491 (Special evidentiary provision—particular emissions)

(1) Section 491(1)—

omit, insert—

(1) This section applies in relation to—

- (a) a proceeding for an offence against section 430 in which it is claimed the defendant, by the making of an emission causing environmental nuisance, has contravened a relevant condition of an environmental authority; or
- (b) a proceeding for an offence against section 440 or 440Q in which it is claimed the defendant caused environmental nuisance or contravened a noise standard by an emission made from a person, place or thing (the ***alleged source***).

(2) Section 491(2)(a)—

omit, insert—

(a) either—

- (i) for an offence against section 430—the level, nature or extent of the emission was an unreasonable interference with an environmental value giving rise to a contravention of the relevant condition of the environmental authority; or
- (ii) for an offence against section 440 or 440Q—the emission was made from the alleged source and travelled to another place; and

(3) Section 491(4)—

insert—

relevant condition, of an environmental authority, means a condition that—

- (a) states the holder of the authority must not cause environmental nuisance or otherwise make an emission that causes, or is likely to cause, environmental nuisance; but
- (b) does not require an indicator of the quality or quantity of an emission, or the impact of an emission on the environment, to be measured to establish the causation of environmental nuisance.

105 Amendment of s 493 (Executive officers must ensure corporation complies with Act)

Section 493—

insert—

- (5) Subsection (6) applies if the act or omission of a corporation that causes an offence to be committed happens earlier than the time of the commission of the offence.

Example—

An act is done by a corporation in January 2023. The act results in serious environmental harm being caused in January 2024, in contravention of section 437(1).

- (6) A reference in this section to an executive officer of the corporation includes a reference to an executive officer who—
 - (a) is not in office when the offence is committed; but
 - (b) was in office when the act or omission happened.

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

Section 493A(3)(b)—

insert—

[s 107]

Note—

However, see also section 319A in relation to an act done while carrying out an activity involving a relevant industrial chemical.

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

(1) Section 502—

insert—

(2A) The court may, in making an order under subsection (2), impose any other requirements the court considers necessary or desirable for enforcement of the order.

(2) Section 502—

insert—

(3A) Also, subsection (4) applies regardless of whether the court makes an order under subsection (2).

(3) Section 502(4), from ‘In’ to ‘the court may’—

omit, insert—

The court may

(4) Section 502(7), definition *public benefit order*, from ‘made to’—

omit, insert—

made—

- (a) to pay an amount of money to a stated person or organisation for the carrying out of a stated project to restore or enhance the environment in a public place or for the public benefit; or
- (b) to carry out a stated project to restore or enhance the environment in a public place or for the public benefit.

108 Insertion of new s 506A

After section 506—

insert—

506A Orders against persistent offenders

- (1) This section applies if—
 - (a) a person is convicted of a serious environmental offence; and
 - (b) the person has been convicted of the same, or a different, serious environmental offence at least 2 other times in the previous 5 years.
- (2) If the court convicting the person considers it necessary to stop the person from committing further serious environmental offences, the court may make—
 - (a) an order prohibiting the person from carrying out a particular activity; or

Example of order under paragraph (a)—

an order prohibiting a person from carrying out an environmentally relevant activity

 - (b) an order prohibiting the person from carrying out a particular activity except in particular circumstances; or
 - (c) any other order the court considers appropriate.
- (3) A person must not contravene an order made under subsection (2).

Maximum penalty—3,000 penalty units or 2 years imprisonment.

- (4) In this section—

serious environmental offence means an offence under this Act for which the maximum penalty is 1,500 penalty units or more.

[s 109]

109 Amendment of s 540A (Registers to be kept by chief executive)

Section 540A(1)(a)(iii) to (v)—

omit, insert—

- (iii) proponents' responses to the comments mentioned in subparagraph (ii);
- (iv) final terms of reference published by the chief executive;
- (v) submitted EISs;
- (vi) written summaries of submissions given to the chief executive about submitted EISs;
- (vii) proponents' responses to the submissions mentioned in subparagraph (vi);
- (viii) EIS amendment notices;
- (ix) EIS assessment reports;

110 Amendment of s 542 (Inspection of register)

Section 542(1)(a)—

omit, insert—

- (a) keep the register open for inspection by members of the public—
 - (i) if the register is kept on a website—on the website; or
 - (ii) otherwise—during office hours on business days at the entity's relevant office for the administration of this Act; and

111 Insertion of new s 542A

After section 542—

insert—

542A Personal information on register

- (1) This section applies if the relevant entity is satisfied someone's personal safety would be put at risk if particular information (for example, the person's address or other contact details) were to be included, or allowed to remain, in a register mentioned in section 540(1) or 540A(1).
- (2) The relevant entity must ensure the information—
 - (a) is not included in a part of the register that is available to the public; and
 - (b) is not included in an extract or copy of information from the register, whether or not the information is from a part of the register that is available to the public.

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

Section 554(4)—

omit.

113 Amendment of s 564 (Definitions for pt 3)

- (1) Section 564, definition *regulatory function*, after paragraph (a)—

insert—

 - (aa) preparing a site investigation report under chapter 7, part 8; or
- (2) Section 564, definition *regulatory function*, paragraphs (aa) to (d)—

renumber as paragraphs (b) to (e).

[s 114]

114 Replacement of s 574C (Report and declaration to accompany document)

Section 574C—

omit, insert—

574C Declaration to accompany particular documents

- (1) This section applies if—
 - (a) an auditor prepares any of the following documents (each a *relevant document*)—
 - (i) an environmental report about an audit under chapter 7, part 2, division 2;
 - (ii) a certification for a contaminated land investigation document under chapter 7, part 8;
 - (iii) a report or certification about an audit or evaluation of another matter or thing prescribed by regulation; and
 - (b) the relevant document must be submitted, by the auditor or another person, to the administering authority.
- (2) The relevant document must be accompanied by a declaration by the auditor stating the following—
 - (a) the auditor's qualifications and experience relevant to the subject matter of the relevant document and any audit, investigation or evaluation to which the document relates;
 - (b) if the relevant document is a report or certification mentioned in subsection (1)(a)(iii)—the document addresses the relevant matters for the audit or evaluation;
 - (c) that the auditor has not knowingly included false, misleading or incomplete information in the relevant document;

- (d) that the auditor has not knowingly failed to reveal any relevant information or document to the administering authority;
- (e) the document is factually correct;
- (f) the opinions expressed in it are honestly and reasonably held.

115 Amendment of ch 12, pt 3A, div 4, hdg (Suspension or cancellation of approval)

Chapter 12, part 3A, division 4, heading, ‘Suspension or’—
omit, insert—

Amendment, suspension or

116 Amendment of s 574D (Grounds for suspension or cancellation)

- (1) Section 574D, heading, after ‘for’—
insert—

amendment,

- (2) Section 574D, ‘suspending or’—
omit, insert—

amending, suspending or

117 Amendment of s 574E (Show cause notice)

Section 574E(1), ‘suspend or’—
omit, insert—

amend, suspend or

118 Amendment of s 574G (Suspension or cancellation)

- (1) Section 574G, heading, ‘Suspension’—
omit, insert—

[s 119]

Amendment, suspension

- (2) Section 574G(1), before paragraph (a)—

insert—

(aa) if the proposed action was to amend the approval—amend the approval in the proposed way, including, for example, amending a condition to which the approval is subject or adding another condition to the approval; or

- (3) Section 574G(1)(aa) to (b)—

renumber as section 574G(1)(a) to (c).

119 Replacement of s 574H (Who may make a complaint)

Section 574H—

omit, insert—

574H Making a complaint against an auditor

- (1) A person may make a complaint to the chief executive that a ground exists under section 574D for amending, suspending or cancelling an auditor's approval.
- (2) The complaint must—
 - (a) be in writing; and
 - (b) state the complainant's name, address and contact details; and
 - (c) contain particulars of the allegations on which the complaint is founded; and
 - (d) be verified by a declaration that the information provided in the complaint is true and accurate.
- (3) The chief executive may require the complainant to give further particulars of the complaint within a stated reasonable period.

-
- (4) The chief executive may decide to not take action on the complaint under division 4 if—
- (a) the chief executive has asked for further particulars under subsection (3) and the further particulars are—
 - (i) not given; or
 - (ii) not verified by a declaration that the further information provided is true and accurate; or
 - (b) the chief executive is satisfied the complaint—
 - (i) is frivolous or vexatious; or
 - (ii) lacks substance or credibility.

120 Amendment of s 574M (False or misleading information about reports or certification)

- (1) Section 574M, heading, from ‘information’—

omit, insert—

reports, certifications or declarations

- (2) Section 574M(1), from ‘report’ to ‘knows’—

omit, insert—

report, provide a certification, or make a declaration about a report or certification, that the auditor knows, or ought reasonably to know,

- (3) Section 574M(2), from ‘the report’—

omit, insert—

the auditor knew, or ought reasonably to have known, the report, certification or declaration was false or misleading, without specifying which.

[s 121]

121 Insertion of new ch 12, pt 4C

Chapter 12—

insert—

Part 4C Confidentiality of information

579D Confidentiality of information—generally

- (1) This section applies to a person who—
 - (a) is, or has been, any of the following—
 - (i) the chief executive;
 - (ii) an authorised person;
 - (iii) a public service employee;
 - (iv) a local government;
 - (v) an officer or employee of a local government;
 - (vi) a person to whom an entity mentioned in subparagraph (iv) or (v) has subdelegated, under this Act, a function or power delegated to the entity under this Act; and
 - (b) obtains confidential information about another person in administering, or performing functions or exercising powers under, this Act.
- (2) However, this section does not apply to a person mentioned in subsection (1)(a) to the extent section 316PE or 318U applies to the person in relation to the confidential information.
- (3) The person must not use or disclose the confidential information unless the use or disclosure is—

- (a) in the performance of a function or exercise of a power under this Act; or
- (b) with the consent of the person to whom the information relates; or
- (c) otherwise required or permitted by law.

Maximum penalty—100 penalty units.

- (4) In this section—

confidential information—

- (a) means any information that—
 - (i) could identify an individual; or
 - (ii) is about a person's current financial position or financial background; or
 - (iii) would be likely to damage the commercial activities of a person to whom the information relates; but
- (b) does not include—
 - (i) information that is publicly available; or
 - (ii) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates.

122 Insertion of new ch 13, pt 31

Chapter 13—

insert—

Part 31 **Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2023**

Division 1 **Preliminary**

792 Definitions for part

In this part—

amending Act means the *Environmental Protection and Other Legislation Amendment Act 2023*.

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

new, for a provision of this Act, means the provision as in force from the commencement.

Division 2 **Transitional environmental programs**

793 Existing submission of draft transitional environmental program

- (1) This section applies if—
 - (a) before the commencement, a draft transitional environmental program had been submitted to the administering authority under this Act; and

- (b) immediately before the commencement, the administering authority had not decided whether to approve the program.
- (2) Chapter 7, part 3 as in force immediately before the commencement continues to apply in relation to the approval of the draft program as if the amending Act had not been enacted.
- (3) If, after the commencement, the draft transitional environmental program is approved—
 - (a) the draft program is taken to be a transitional environmental program issued under new chapter 7, part 3; and
 - (b) a condition imposed on the approval of the draft program is taken to be a condition imposed on the program under new chapter 7, part 3.

794 Existing transitional environmental program

- (1) An existing transitional environmental program continues in effect as if it had been issued under new chapter 7, part 3.
- (2) For the application of new chapter 7, part 3 under subsection (1), all of the following apply—
 - (a) a requirement of the existing transitional environmental program is taken to be a provision of the program issued under new chapter 7, part 3;
 - (b) a condition imposed on the existing transitional environmental program is taken to be a condition imposed under new chapter 7, part 3;
 - (c) the date of issue of the program under new chapter 7, part 3 is taken to be the day the program was approved under the Act as in force before the commencement.

[s 122]

- (3) The administering authority must continue to keep in the register of transitional environmental programs under section 540(1)(k) existing documents and information for an existing transitional environmental program.
- (4) In this section—
existing transitional environmental program means a transitional environmental program for which an approval was in effect under chapter 7, part 3 immediately before the commencement.

795 Proceeding for offence against former s 432A

- (1) This section applies in relation to an offence against former section 432A committed entirely before the commencement by a person.
- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be punished for the offence, as if this Act had not been amended by the amending Act.
- (3) Subsection (2) applies despite the Criminal Code, section 11.

Division 3 PRC plans

Subdivision 1 Application of pt 27 generally

796 Meaning of terms for division

If a term used in this division is defined in section 750, the term has the same meaning as it has under that section.

797 Application of pt 27 to holders of environmental authorities that have not taken effect

- (1) A reference in part 27 to an environmental authority includes, and is taken to have always included, a reference to an environmental authority issued under section 195 that has not taken effect under section 200.
- (2) To remove any doubt, it is declared that the administering authority must give each mining EA holder a notice under section 754, and sections 751 to 756 apply in relation to the holder, even if the environmental authority has not taken effect under section 200.

Subdivision 2 Application of pt 27 to particular amalgamated or de-amalgamated environmental authorities

798 Definitions for subdivision

In this subdivision—

applied provisions means the following provisions—

- (a) sections 754 to 756;
- (b) section 765B(3) to (5).

new EA see section 799(b).

original EA see section 799(a).

799 Application of subdivision

This subdivision applies if—

- (a) on or after the PRCP start date, an environmental authority (the *original EA*)

[s 122]

- held by a mining EA holder is or was, under chapter 5, part 8, amalgamated or de-amalgamated; and
- (b) the amalgamated environmental authority or each de-amalgamated environmental authority is an environmental authority (each a *new EA*) for a mining activity authorised under a mining lease; and
 - (c) a relevant activity for the new EA is an ineligible ERA; and
 - (d) before the amalgamation or de-amalgamation of the original EA, a PRCP schedule was not approved for the original EA.

800 Application of applied provisions

- (1) The applied provisions apply in relation to the holder of the new EA.
- (2) For subsection (1)—
 - (a) the applied provisions apply in relation to the holder and new EA as if the holder had been the mining EA holder for the new EA on the commencement of part 27; and
 - (b) a reference in the applied provisions to a land outcome document is taken to be a reference to a land outcome document for the original EA, to the extent the document relates to land the subject of the new EA; and
 - (c) despite section 754(2)(b), the period mentioned in section 754(2) is taken to end on the day that is 6 months after the day the new EA is issued or, for a de-amalgamated environmental authority, the new EA otherwise takes effect.

801 Notice for original EA taken to have been withdrawn in particular circumstances

- (1) This section applies if, before the amalgamation or de-amalgamation of the original EA—
 - (a) a notice had been given for the original EA under section 754(1); and
 - (b) a PRCP schedule had not been approved for the original EA.
- (2) The notice for the original EA is taken to have been withdrawn when the new EA is issued or, for a de-amalgamated environmental authority, the new EA otherwise takes effect.

Subdivision 3 Provision for approval of particular PRC plans

802 Particular holders may apply for PRC plan approval for pt 27

- (1) This section applies if—
 - (a) a PRCP schedule is not approved for an environmental authority to which part 27 applies (including because of the operation of this division) because—
 - (i) the holder of the authority has failed to comply with a notice given under 754; or
 - (ii) the holder of the authority has not received a notice required to be given to the holder under section 754; or
 - (iii) the administering authority has given the holder of the environmental authority a written notice refusing to approve a proposed PRCP schedule; and

[s 122]

- (b) a PRCP schedule is required under this Act for an environmentally relevant activity carried out under the authority; and
 - (c) no other provision of this Act enables the holder to apply for approval of a PRCP schedule for the authority.
- (2) The holder of the environmental authority may ask the administering authority to assess a proposed PRC plan for the environmental authority.
 - (3) If the application is made within 5 years after the commencement of this section, sections 754(3) to (9) and 755 to 756 apply in relation to the proposed PRC plan as if—
 - (a) a notice had been given to the holder under section 754(1); and
 - (b) the proposed PRC plan had been given to the administering authority in compliance with the notice.
 - (4) If subsection (3) does not apply, the administering authority must assess the proposed PRC plan under chapter 5, parts 2 to 5, as if the PRC plan accompanied an application for an environmental authority for a relevant activity made under section 125(1)(n).
 - (5) Nothing in this section limits the application of section 431A to the holder of an environmental authority.

Division 4 Miscellaneous

803 Existing EIS process—application of ch 3

- (1) New sections 41A and 41B apply in relation to draft terms of reference for an EIS only if the draft

is submitted under section 41 after the commencement.

- (2) New sections 49, 49A, 56A and 56AA apply in relation to a submitted EIS after the commencement only if the draft terms of reference for the EIS is also submitted under section 41 after the commencement.
- (3) New section 59A applies in relation to an EIS assessment report for a project given by the chief executive after the commencement only if the draft terms of reference for the EIS is also submitted under section 41 after the commencement.

804 Existing site-specific application—application of new s 172

New section 172 applies in relation to a site-specific application made but not decided before the commencement.

805 Existing amendment application—application of s 230

- (1) This section applies if—
 - (a) before the commencement, the administering authority received an amendment application under chapter 5, part 7, division 2; and
 - (b) immediately before the commencement, the administering authority had not made an assessment level decision for the application.
- (2) New section 230 applies in relation to the amendment application.

[s 123]

806 Suspension—application of s 278B

Section 278B applies in relation to a suspension that takes effect after the commencement.

807 Application of new s 493

To remove any doubt, it is declared that new section 493(6) does not apply to an executive officer of a corporation in relation to an offence committed by the corporation if either of the following happened before the commencement—

- (a) the offence was committed;
- (b) the act or omission that caused the offence to be committed.

808 Orders under new s 506A

- (1) A court may make an order under new section 506A in relation to a person only if the person is convicted of a serious environmental offence committed after the commencement.
- (2) Subsection (1) does not prevent the court from considering serious environmental offences committed by the person before the commencement for applying new section 506A(1)(b).

123 Amendment of sch 1 (Exclusions relating to environmental nuisance or environmental harm)

Schedule 1, section 1(d)—

omit, insert—

- (d) noise necessary for the safe operation of a ship, or noise from the operation of a ship in a port, including noise from—
 - (i) machinery and equipment; or

- (ii) shore and ship based port operations for loading onto, or unloading from, a ship, items other than bulk goods; or
- (iii) ship to shore communications relating to safe berthing and cargo handling; or
- (iv) a ship's horn;

124 Amendment of sch 2 (Original decisions)

- (1) Schedule 2, part 1, division 1—

insert—

41A(1)(b) decision to refuse to allow draft terms of reference to proceed to public notification

49(1) decision to refuse to allow an EIS to proceed or to allow a submitted EIS to proceed on conditions

56A(2)(b) decision to refuse to allow submitted EIS to proceed

- (2) Schedule 2, part 1, division 3, entry for section 316N, '316N'—

omit, insert—

316M

- (3) Schedule 2, part 2, division 2, entry for section 316N(2), '316N(2)'—

omit, insert—

316P(2)

- (4) Schedule 2, part 2, division 4—

insert—

379D refusal to approve inclusion request

[s 125]

- (5) Schedule 2, part 2, division 4, entry for section 332(1) or (2), ‘for draft’—
omit, insert—
to apply for the issue of a
- (6) Schedule 2, part 2, division 4, entry for section 337(2), ‘draft’—
omit.
- (7) Schedule 2, part 2, division 4, entry for section 339(1) or 344, ‘an approval of, a draft’—
omit, insert—
, a
- (8) Schedule 2, part 2, division 4, entry for section 339(2), ‘approval’—
omit.
- (9) Schedule 2, part 2, division 4, entry for section 353(3)(a), ‘a draft’—
omit, insert—
an application for the issue of a
- (10) Schedule 2, part 2, division 7, entry for section 574G(1), ‘cancel or suspend’—
omit, insert—
amend, suspend or cancel

125 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *environmental management plan* and *standard conditions*—
omit.
- (2) Schedule 4—
insert—

area of cultural heritage significance includes an

area or place of indigenous cultural significance, or aesthetic, architectural, historical, scientific, social or technological significance, to the present generation or past or future generations.

body-worn camera means a device—

- (a) worn on clothing or otherwise secured on a person; and
- (b) designed to be used to—
 - (i) record images; or
 - (ii) record images and sounds.

consumer price index means the all groups consumer price index for Brisbane published by the Australian Statistician.

criminal history, for a person, for chapter 9, part 5A, see section 484B.

emergency situation, for chapter 5, part 14A, see section 316GA.

existing ERA, in relation to an emergency situation, for chapter 5, part 14A, see section 316GA.

inclusion request see section 379B(1).

matter of national environmental significance means a matter described in the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), chapter 2, part 3, division 1.

matter of State environmental significance means a matter prescribed under the *Environmental Offsets Act 2014*, section 10(1)(b) to be a prescribed environmental matter.

minor ERC change, for an application for an ERC decision for a resource activity, for chapter 5, part 14, division 1, subdivision 3, see section 299A.

[s 125]

new ERA, in relation to an emergency situation, for chapter 5, part 14A, see section 316GA.

relevant ERA, for chapter 5, part 14A, see section 316GA.

relevant industrial chemical see the *Industrial Chemicals Environmental Management (Register) Act 2021* (Cwlth), section 7.

spent conviction, for chapter 9, part 5A, see section 484B.

standard conditions—

- (a) for an environmental authority or application for an environmental authority for an environmentally relevant activity—means the conditions applying for the activity under an ERA standard; or
- (b) for a person carrying out an agricultural ERA—means the conditions applying for the agricultural ERA under an agricultural ERA standard.

temporary authority, for chapter 5, part 14A, see section 316GC(1).

- (3) Schedule 4, definition *environmental management register*, ‘section 540A(1)(d)(i)’—

omit, insert—

section 540A(1)(c)(i)

- (4) Schedule 4, definition *holder*, paragraph 1, ‘of an approval’—
omit.

- (5) Schedule 4, definition *holder*, paragraph 1(a), from ‘that’ to ‘approval’—

omit, insert—

to whom the transitional environmental program was issued

-
- (6) Schedule 4, definition *prescribed responsible person*, paragraph 1(a), ‘and the person is known and can be located’—
omit.
- (7) Schedule 4, definition *prescribed responsible person*—
insert—
- 1A Despite paragraph 1(a), the person is a prescribed responsible person for the land only if—
- (a) the person is known; and
- (b) the administering authority can, after making reasonable efforts, locate the person.
- (8) Schedule 4, definition *regulatory requirement*, paragraph (a)(i)(D), ‘approval’—
omit, insert—
- the issue
- (9) Schedule 4, definition *regulatory requirement*, paragraph (a)(ii), ‘approval of a’—
omit.
- (10) Schedule 4, definition *regulatory requirement*, paragraph (b)—
omit, insert—
- (b) the chief executive to decide whether to—
- (i) allow a draft terms of reference to proceed to public notification under section 41A; or
- (ii) allow a submitted EIS to proceed under section 49 or 56A; or
- (c) the Land Court to make an objections decision under section 191.

[s 126]

- (11) Schedule 4, definition *site suitability statement*, ‘section 389(2)(a)’—
omit, insert—
section 389(2)(b)
- (12) Schedule 4, definition *transitional environmental program*, ‘approved’—
omit, insert—
issued

Part 3 **Amendment of Land Title Act 1994**

126 Act amended

This part amends the *Land Title Act 1994*.

127 Amendment of s 50 (Requirements for registration of plan of subdivision)

Section 50(1)—
insert—

- (1) if the plan affects land in the wet tropics area under the *Wet Tropics World Heritage Protection and Management Act 1993*—be consented to, in writing, by the executive director of the Wet Tropics Management Authority under that Act.

Part 4 **Amendment of Waste Reduction and Recycling Act 2011**

128 **Act amended**

This part amends the *Waste Reduction and Recycling Act 2011*.

Note—

See also the amendment in schedule 1.

129 **Amendment of s 99GD (Restriction on sale of banned single-use plastic items)**

- (1) Section 99GD(3), definition *exempt business or undertaking*, before paragraph (a)—

insert—

(aa) a community corrections office under the *Corrective Services Act 2006*; or

(ab) a corrective services facility under the *Corrective Services Act 2006*; or

- (2) Section 99GD(3), definition *exempt business or undertaking*, paragraphs (aa) to (c)—

renumber as paragraphs (a) to (e).

130 **Amendment of s 172 (Procedure for amending, cancelling or suspending end of waste code)**

- (1) Section 172—

insert—

- (6A) A decision to take the proposed action that is an amendment of the end of waste code takes effect for each registered resource producer for the code on the day the amended end of waste code takes effect under section 173(4).

[s 131]

- (2) Section 172(7), after ‘action’—

insert—

that is cancellation or suspension of the end of waste code

- (3) Section 172(6A) and (7)—

renumber as section 172(7) and (8).

131 Amendment of s 173M (Applying to amend end of waste approval)

- (1) Section 173M(4)(a), ‘10 business days’—

omit, insert—

20 business days

- (2) Section 173M(4)(b), after ‘days’—

insert—

that may be extended, under section 173U, by 20 business days

132 Amendment of s 173N (Deciding amendment application)

- (1) Section 173N, heading—

omit, insert—

173N Decision about amendment of end of waste approval

- (2) Section 173N(2), ‘In deciding the application, the’—

omit, insert—

The

- (3) Section 173N(2)(c)—

omit, insert—

(c) if, under section 173Q, the chief executive asks a technical advisory panel for advice, comment or information relevant to the

amendment—any relevant advice, comment or information provided by the panel in response to the request.

133 Amendment of s 173O (Applying to transfer end of waste approval)

Section 173O(3), ‘10 business days’—

omit, insert—

20 business days

134 Insertion of new ch 16, pt 4

Chapter 16—

insert—

**Part 4 Transitional provisions
for Environmental
Protection and Other
Legislation
Amendment Act 2023**

326 Definitions for part

In this part—

amending Act means the *Environmental Protection and Other Legislation Amendment Act 2023*.

former, in relation to a provision, means the provision as in force immediately before the commencement.

327 Day that decision to amend end of waste code takes effect

(1) This section applies if—

[s 134]

- (a) before the commencement, the chief executive decided to amend an end of waste code under section 172(5); and
 - (b) immediately before the commencement, the decision had not yet taken effect for a registered resource producer for the code under former section 172(7).
- (2) The decision takes effect for the registered resource producer for the end of waste code on the later of the following days—
- (a) the day the decision would have taken effect for the producer under former section 172(7) if the amending Act had not been enacted;
 - (b) the day the amended end of waste code takes effect under section 173(4).

328 Decision-making and extension period for existing amendment applications

- (1) This section applies if—
- (a) before the commencement, an application was made under section 173M(1); and
 - (b) immediately before the commencement, the period for deciding the application under former section 173M(4)(a) or (b) had not ended.
- (2) Former section 173M(4) continues to apply for deciding the application as if the amending Act had not been enacted.

329 Decision-making period for existing transfer application

- (1) This section applies if—

-
- (a) before the commencement, an application was made under section 173O(1); and
 - (b) immediately before the commencement, the period for deciding the application under former section 173O(3) had not ended.
- (2) Former section 173O(3) continues to apply for deciding the application as if the amending Act had not been enacted.

135 Amendment and numbering of schedule (Dictionary)

- (1) Schedule—

insert—

stockpile, in relation to waste, includes the storage of waste that is a liquid in—

- (a) a container; or
- (b) a dam, pond or other depression.

- (2) Schedule—

number as schedule 1.

Part 5 Amendment of Wet Tropics World Heritage Protection and Management Act 1993

136 Act amended

This part amends the *Wet Tropics World Heritage Protection and Management Act 1993*.

137 Amendment of s 10 (Authority's functions)

Section 10(5)—

insert—

[s 138]

Note—

‘Aboriginal tradition’ is defined under the *Acts Interpretation Act 1954*. See schedule 1 of that Act.

138 Amendment of s 17 (Duration of appointment etc.)

Section 17(2)—

omit, insert—

- (2) A director is eligible for reappointment for a further term unless—
 - (a) the director has completed 6 consecutive years as a director; or
 - (b) the total period of the appointment, including the further term, would be 6 consecutive years or more.

139 Amendment of s 41 (Preparation of plans by authority)

Section 41—

insert—

- (5) Also, a management plan may make provision for any matter relating to cooperative management agreements entered into, or proposed to be entered into, by the authority, for the purposes of the management plan.
- (6) Without limiting subsection (5), a management plan may—
 - (a) impose requirements about—
 - (i) entering into a cooperative management agreement for the purposes of the management plan; or
 - (ii) the content of a cooperative management agreement entered into, or proposed to be entered into, for the purposes of the management plan; or

Example of a requirement for subparagraph (ii)—

a requirement that a cooperative management agreement states it is an agreement to which a particular provision of the management plan applies

(b) provide for a cooperative management agreement mentioned in paragraph (a) to apply in a way that is inconsistent with particular provisions of the management plan, including, in relation to the following—

(i) a party to the agreement;

(ii) land that is the subject of the agreement, including, for example, in relation to an activity that may be carried out on the land.

(7) To remove any doubt, it is declared that subsection (5) does not prevent the authority from entering into a cooperative management agreement other than for the purposes of a management plan.

140 Amendment of s 51 (Inconsistency between plans)

(1) Section 51, heading, ‘plans’—

omit, insert—

management plan and nature conservation instrument

(2) Section 51(1)—

omit, insert—

(1) If there is any inconsistency between a management plan and a nature conservation instrument in relation to an area, the State Minister must determine, by written notice, whether the management plan or the nature

[s 141]

conservation instrument is to prevail to the extent of the inconsistency.

(3) Section 51—

insert—

(6) In this section—

nature conservation instrument means any of the following under the *Nature Conservation Act 1992*—

- (a) a conservation plan;
- (b) a management plan;
- (c) a management program;
- (d) a management statement.

141 Amendment of s 56 (Prohibited acts)

(1) Section 56(1)(b)—

omit.

(2) Section 56(1)(c)—

renumber as section 56(1)(b).

142 Insertion of new pt 9

After section 85—

insert—

Part 9

Validation and declaratory provisions for Environmental Protection and Other Legislation Amendment Act 2023

86 Validation of management plan provisions about cooperative management agreements

- (1) This section applies in relation to a provision of a management plan, as in force from time to time before the commencement, relating to a cooperative management agreement.
- (2) To remove any doubt, it is declared that the management plan has always been able to make provision for the matters mentioned in new section 41(5) and (6).
- (3) In this section—
new, in relation to a provision, means the provision as in force on the commencement.

87 Particular cooperative management agreements not invalid

- (1) This section applies to a cooperative management agreement that—
 - (a) was in effect immediately before the commencement; and
 - (b) does not—
 - (i) state it is an agreement to which a provision of a management plan applies; or
 - (ii) otherwise purport to have been entered into for the purposes of, or to be subject to, a provision of a management plan.
- (2) To remove any doubt, it is declared that the agreement is not invalid merely because, on the commencement, the agreement contravenes, or is otherwise inconsistent with, a requirement about cooperative management agreements under a provision of a management plan.

[s 143]

(3) In this section—

provision, of a management plan, includes a provision of the management plan as in force from time to time before the commencement.

143 Omission of sch 2 (World heritage convention)

Schedule 2—

omit.

144 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definition *World Heritage Convention*—

omit.

(2) Schedule 3—

insert—

cooperative management agreement means a cooperative management agreement mentioned in section 10(1)(f).

World Heritage Convention means the Convention concerning the Protection of the World Cultural and Natural Heritage adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 16 November 1972.

Note—

The text of the World Heritage Convention is published on the United Nations Educational, Scientific and Cultural Organization's website.

Part 6 Legislation amended

145 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Legislation amended

section 145

Environmental Protection Act 1994

1 Section 184(b), ‘section 183(1)’—

omit, insert—

section 183(1)(a)

2 Section 194A(2)(a), after ‘conditions’—

insert—

or amendment

3 Section 203(2), ‘if a’—

omit, insert—

if this Act or a

4 Section 216, heading, ‘div 2’—

omit, insert—

division

5 Section 269(1)(b)(ii), ‘approved’—

omit, insert—

issued

6 Chapter 5, part 11, heading, ‘by administering authority’—

omit.

7 Section 280(1)(d), from ‘suspend’—

omit, insert—

suspend or extend the suspension of the environmental authority—the proposed suspension period or extended period of suspension;

8 Section 280(3), after ‘period’—

insert—

or extended period of suspension

9 Section 282(1)(a)—

omit, insert—

(a) suspend or extend the suspension of the environmental authority for no longer than the proposed suspension period or extended period of suspension; or

10 Section 284B(1)(d), after ‘suspension’—

insert—

or extension for the suspension

11 Section 284D(a) and (b), after ‘suspension’—

insert—

or extension of the suspension

- 12 Chapter 5, part 15, division 1, hdg, ‘plan’—**
omit, insert—
plans
- 13 Section 318B, ‘an ERA’—**
omit, insert—
the ERA
- 14 Section 326H(1)(a), from ‘prepare’ to ‘it’—**
omit, insert—
apply for the issue of a transitional environmental program for the activity
- 15 Section 336A, heading, ‘submission’—**
omit, insert—
application
- 16 Section 336A(1), ‘a submission for approval’—**
omit, insert—
an application for the issue
- 17 Section 342(1), ‘the submission of’—**
omit, insert—
an application for the issue of
- 18 Section 342(2), ‘draft program’—**
omit, insert—
application

-
- 19 Chapter 7, part 3, division 3, heading, ‘approval for’—**
omit.
- 20 Section 344D(1), ‘approval’—**
omit.
- 21 Chapter 7, part 3, division 3B, heading, ‘approval for’—**
omit.
- 22 Section 344F, heading, ‘approval’—**
omit.
- 23 Section 344F(1), ‘the approval for’—**
omit.
- 24 Section 344G, heading, ‘approval’—**
omit, insert—
program
- 25 Section 344G(1)(a), ‘the approval for’—**
omit.
- 26 Section 346(1), ‘an approved’—**
omit, insert—
a
- 27 Section 346(2), ‘the approval’—**
omit, insert—
the program

- 28 Section 347, heading, ‘approval’—**
omit.
- 29 Section 347(1), ‘an approval of’—**
omit.
- 30 Section 348, heading, ‘approval’—**
omit.
- 31 Section 348, ‘the approval for’—**
omit.
- 32 Section 349, ‘an approval for’—**
omit.
- 33 Chapter 7, part 4, heading, ‘submission of’—**
omit, insert—
applications for
- 34 Section 350(2)(c), ‘prepare, and submit to the authority’—**
omit, insert—
apply to the authority for the issue of
- 35 Section 354, ‘an approval for’—**
omit.
- 36 Section 358(b), from ‘prepare’ to ‘authority’—**
omit, insert—
apply for the issue of a transitional environmental

program

37 Section 370, definition *site suitability statement*, ‘section 389(2)(a)’

omit, insert—

section 389(2)(b)

38 Section 433, heading, ‘Approval holder’—

omit, insert—

Holder

39 Section 433(1), ‘an approval of’—

omit.

40 Section 458(2)(c)(iii), ‘transitional environmental program approval holder’—

omit, insert—

holder of the transitional environmental program

41 Section 520(1)(l), from ‘an approval’ to ‘submits,’—

omit, insert—

the program or person or public authority that is required to apply for the issue of

42 Section 520(2)(c), ‘the submission of’—

omit, insert—

an application for the issue of

43 Section 754(1)—

insert—

Note—

See also section 797.

Environmental Protection Regulation 2019

1 Section 147(1), from ‘program’ to ‘to the authority’—

omit, insert—

program

2 Section 147(1)(a), from ‘person’ to ‘submit’—

omit, insert—

holder, or applicant for the issue, of

3 Section 147(1)(b)—

omit, insert—

(b) the activity the holder or applicant is carrying out, or proposes to carry out, under the program;

4 Section 147(1)(e), ‘aims’—

omit, insert—

objectives

5 Section 147(1)(g) and (i)

omit.

6 Section 147(1)(h), ‘submitted’—

omit, insert—

issued

- 7 Section 147(1)(j), ‘an approval of’—**
omit.
- 8 Section 147(1)(h) to (j)—**
renumber as section 147(1)(g) and (h).
- 9 Section 147(2), ‘certificate of approval for the’—**
omit.
- 10 Section 165(4), definition *compliance action event*, paragraph (c)(i) to (iii)—**
omit, insert—
- (i) has voluntarily applied for the issue of a transitional environmental program; or
 - (ii) is acting under a transitional environmental program; or
 - (iii) is required to apply for the issue of a transitional environmental program; or
- 11 Section 178(1), from ‘a draft’ to ‘approval for’—**
omit, insert—
- an application for the issue of a transitional environmental program, or an amendment of
- 12 Section 178(1)(b), from ‘for approval’ to ‘the approval’—**
omit, insert—
- for the issue of the program or amendment of the program

13 Section 178(2), ‘of an approval’—
omit.

Waste Reduction and Recycling Act 2011

1 Section 7, ‘the schedule’—
omit, insert—
schedule 1

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