Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Bill 2025

Explanatory Notes

Short title

The short title of the Bill is the Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Bill 2025.

Policy objectives and the reasons for them

The primary policy objective of the Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Bill 2025 (the Bill) is to improve administrative efficiency and ensure the regulatory frameworks within Queensland's environmental legislation remain contemporary, effective and responsive. Specifically, the Bill amends the:

- *Environmental Protection Act 1994* (EP Act) to reduce regulatory burden, make the Act more responsive to emerging challenges, provide greater clarity and resolve operational issues;
- *Waste Reduction and Recycling Act 2011* (WRR Act) to align the timeframes for the commencement of summary proceedings for an offence and the provisions concerning the seizure of property with corresponding amendments to the EP Act;
- *Nature Conservation Act 1992* (NC Act) to clarify the definition of 'protected area' and to provide investigation powers for conservation officers under the NC Act for offences under the *Planning Act 2016* (Planning Act), comparable with other frameworks linked to the Planning Act;
- *Water Act 2000* (Water Act) to clarify matters such as timelines for preparation of underground water impact reports (UWIRs) and when land can be accessed under 'make good' agreements; and
- *Forestry Act 1959* (Forestry Act) and the *Recreation Areas Management Act 2006* (RAM Act) to deliver a single integrated permission for tourism activities on protected areas, State forests, recreation areas and State marine parks (parks and forests) under the government's 20-year tourism plan, *Destination 2045 - Delivering Queensland's Tourism Future*.

Environmental Protection Act and Waste Reduction and Recycling Act

Amendments to the EP Act will reduce regulatory burden and make the Act more responsive to emerging challenges, by:

- reframing the way that environmentally relevant activities (ERAs) are identified and regulated;

- clearly identifying Queensland's significant environmental values to guide the identification of ERAs and the administration of the legislation; and
- establishing codes for certain ERAs in place of regulating via an environmental authority (EA).

Several other amendments will also be made to the EP Act to reduce burden, provide greater clarity and resolve operational issues. These include amendments to:

- remove duplication in the environmental impact statement process;
- recognise impact assessment reports and related processes under the *State Development and Public Works Organisation Act 1971* (SDPWO Act) as satisfying requirements for subsequent environmental authority application processes to reduce duplication and deliver regulatory savings;
- clarify timeframes relating to the residual risk requirement, and the relationship between this requirement and surrender applications;
- strengthen powers for the court to order forfeiture of property to stop an ongoing offence;
- correct a drafting error to ensure the information stage of an environmental authority application is not shortened when an amendment application is received;
- increase the time limitations for commencing summary proceedings for offences, to ensure complex offences may still be prosecuted;
- provide administrative improvements for recognition of industry-led accreditation programs for agricultural ERAs;
- refine and clarify requirements for progressive rehabilitation and closure plans (PRCPs) to assist environmental authority holders transitioning into the PRCP framework, reduce regulatory burden, resolve implementation issues and provide greater clarity on various aspects of the legislation; and
- reduce regulatory burden for mining operators subject to PRCP requirements, while maintaining the intent of the framework.

Amendments to the WRR Act will deliver legislative alignment with the EP Act for certain compliance and enforcement provisions. The amendments include extending the timeframe to bring court summary proceedings for offences against the WRR Act and allowing the chief executive to keep evidence seized for the duration of the proceedings, the prosecution of the offence and any appeal from the prosecution. The amendments support the object of the WRR Act and provide consistency and clarity through legislative alignment.

Nature Conservation Act

Amendments to the NC Act will contemporise the regulatory framework and support administrative efficiency by aligning authorised officer compliance functions with comparable frameworks and more clearly communicating the meaning of the legislation.

Investigation powers for Planning Act offences

The Planning Act provides for development offences, such as carrying out assessable development without a permit, contravening development approvals, or failing to comply with conditions of approval.

In some instances, investigation powers with respect to a development offence under the Planning Act are provided for in specific legislation, such as the *Queensland Heritage Act 1992* and the *Vegetation Management Act 1999*.

However, there is currently no similar legislative authority for conservation officers to undertake investigation for NC Act matters that are regulated through the Planning Act. For example, koala priority area and koala habitat area determinations are made under the *Nature Conservation (Koala) Conservation Plan 2017*, however, the regulation of development in these areas are established through the *Planning Regulation 2017* and development offences are provided in the Planning Act.

The intent is to ensure that the NC Act investigative powers may be utilised for an investigation of a development offence that relates to an NC Act matter that is regulated by the Planning Act. The changes ensure that authorised officers from the agency responsible for the NC Act will have the full suite of tools to undertake compliance action, comparable with other frameworks linked to the Planning Act.

Meaning of 'protected area'

The term 'protected area' is given two meanings throughout the NC Act. The primary meaning applies throughout the Act with the exception of one division where a context-specific meaning is applied. However, the NC Act's schedule Dictionary only references the primary meaning of protected area. Amendments to the Dictionary will add a clarifying reference to the context-specific meaning, aiding interpretation and navigation of the legislation.

Water Act

Amendments to chapter 3 and chapter 3A of the Water Act will streamline and enhance regulatory provisions to ensure processes focus on outcomes associated with monitoring of groundwater impacts, contemporary modelling and reporting of underground water impacts, and better coexistence arrangements.

Forestry Act and the Recreation Areas Management Act

Tourism activities in Queensland occur in a diversity of natural and built environments across the State, including on State land. Queensland's nature-based tourism industry is underpinned by the State's parks and forests, such as protected areas, State marine parks, State forests and recreation areas. These areas are important attractions for international and domestic visitors which make an important contribution to the economy.

Terrestrial protected areas, State forests, recreation areas and marine parks are predominantly administered by the Queensland Parks and Wildlife Service (QPWS) within the Department of the Environment, Tourism, Science and Innovation. These areas can also be administered in conjunction with the Department of Primary Industries, HQ Plantations Pty Ltd and First Nations partners.

Commercial ecotourism and organised events in protected areas, State marine parks, State forests and recreation areas are regulated under legislation to ensure protection of the environment and amenity, the visitor experience and to provide for the collection of user fees which contribute to the ongoing management and administration of these places. Depending on the location of the activity, regulation occurs under either the NC Act, the Forestry Act, the RAM Act or the *Marine Parks Act 2004* (MP Act).

Across the State, more than 500 authorised operators provide nature-based ecotourism opportunities, through their products and services, for visitors to experience the outstanding natural and cultural heritage values of Queensland's terrestrial parks and forests. Additionally, over 550 tourism operators authorised by QPWS provide vessel-based tours in Commonwealth and State marine parks along Queensland's coastline.

During consultation on the government's recently released 20-year tourism plan *Destination 2045 - Delivering Queensland's Tourism Future* (Destination 2045), tourism industry feedback indicated concerns regarding excessive red tape such as operators having to obtain multiple permits and approvals for the same activity.

In response to this feedback, Destination 2045 includes a commitment (Initiative 1.2) to improve permitting process for operators by developing a single permission for businesses undertaking tourism operations in protected areas. For clarity and in recognition of the interconnected nature of tourism operations occurring across multiple tenures, the single integrated permission initiative will be created to also include State forests, State marine parks and recreation areas which are often included in tourism operators' itineraries.

The objective of these amendments is to facilitate delivery of the government's commitment for a single integrated permission which can be granted to businesses conducting tourism activities on lands or waters administered by QPWS, while maintaining the natural and cultural values upon which these businesses rely. This single integrated permission will provide authorisation for the conduct of commercial tourism activities and organised events across all relevant locations in protected areas, State forests, State marine parks and recreation areas. This approach will also ensure a single expiry date and a single fee to ensure streamlined arrangements for operators even when conducting their business across lands and waters managed under different legislation. Other amendments to the Forestry Act and the RAM Act relating to permitting are also included in the Bill, to further improve and align the regulatory framework and to remove redundant provisions.

Achievement of policy objectives

Environmental Protection Act and Waste Reduction and Recycling Act

In relation to the EP Act, the Bill achieves its objectives by making several amendments including:

- providing a consistent environmental risk framework to identify which activities require regulatory oversight, instead of the current 'mixed' approach that relies on referencing broad activity categories (e.g. 'resource activities') and prescribing specific activities (e.g. chemical manufacturing) in subordinate legislation;

- establishing a pathway and process that allows for certain ERAs to be regulated via an ERA code;
- providing for a consolidated list of significant environmental values, to be prescribed by regulation to guide administration of the Act;
- removing the duplicative requirement to publicly notify the terms of reference for an environmental impact statement, recognising that the notification process for the environmental impact statement itself is still required;
- recognising IARs and related processes under the SDPWO Act as satisfying requirements for subsequent environmental authority application processes;
- clarifying that, where an environmental authority holder does not comply with the residual risk requirement within the stated reasonable period, the decision on surrender lapses, and a new application must be made under section 262 of the EP Act;
- strengthening powers for the court to order forfeiture of property to stop an ongoing offence;
- correcting a drafting error to ensure the information stage of an environmental authority application is not shortened when a change to an amendment application is received;
- increasing the time limitations for commencing summary proceedings for offences;
- for accreditation programs for agricultural ERAs:
  - clarifying the records required to be kept and reported to the chief executive by recognised programs;
  - changing the timeframe references for submitting and processing applications for decisions relating to program recognition (e.g. to decide applications) from days to business days; and
  - clarifying that the chief executive may impose conditions when the recognition of an accreditation program is renewed; and
- for PRCPs:
  - removing the public interest evaluation process, which creates administrative and financial burden without clear benefits. Public interest considerations will continue to be a requirement of the PRCP approval process through the PRCP application; and
  - providing the administering authority with the ability to require an audit of a PRCP schedule through a notice to the environmental authority holder, rather than it being mandatory every three years.

Nature Conservation Act

In relation to the NC Act, the Bill achieves its objectives by:

- allowing conservation officers to exercise powers for the purpose of investigating, monitoring and enforcing compliance with certain offences under the Planning Act, to the extent they relate to an NC Act matter; and
- including references to both applications of the term ‘protected area’ in the schedule Dictionary.

Water Act

In relation to the Water Act, the Bill achieves its objectives by:

- providing for a baseline assessment strategy within a Cumulative Management Area (CMA) UWIR, with requirements for planning baseline assessments for both on and off tenure bores that are impacted by resources activities;
- requiring subsequent UWIRs to be provided five years from the previous date of approval;
- amending the notification requirements for an approved UWIR such that notification must only be provided to those impacted bore owners who are in the immediately affected area or a long-term affected area;
- providing a consistent and more regular reporting framework for the Office of Groundwater Impact Assessment (OGIA) on the status and outcome of bore assessments, baseline assessments and make good agreements;
- creating offences for not complying with the regular reporting requirements;
- protecting personal information while ensuring the parties who require or request it, are able to access data;
- allowing for a bore owner to request that a bore direction notice be issued to a resource tenure holder to undertake a bore assessment of their bore and subsequent requirement to enter into a make good agreement; and
- providing for decisions made under the bore owner's request process to have internal and external rights of review and appeal, properly allowing for procedural fairness for all parties.

Forestry Act and the Recreation Areas Management Act

The Bill achieves its policy objectives by amending:

- the Forestry Act to formalise arrangements in legislation for commercial activity permits, organised event permits and commercial activity agreements by including them as specific authority types and specifying terms to ensure legislative alignment;
- the Forestry Act and the RAM Act to enable commercial activity permits and organised event permits to be combined with equivalent permits under the NC Act, the Forestry Act and the RAM Act, and permissions under the MP Act (marine park permission) for a similar activity or purpose, into a single integrated permission; and
- the RAM Act to increase the permit term for commercial activity permits to 5 years, and allowing them to be transferable, consistent with those granted under the NC Act; and
- the Forestry Act and the RAM Act to make administrative changes to provide for consistency between relevant legislation to streamline implementation of the single integrated permission, and to remove redundant provisions.

Alternative ways of achieving policy objectives

With regards to the amendments related to the EP Act, WRR Act, Forestry Act and RAM Act, administrative changes alone are unable to achieve the policy objectives. As such, legislative amendments are necessary.

With regards to the Forestry Act and RAM Act, a non-regulatory approach would not allow commercial activity permits for State forests and timber reserves to be combined with a State marine park permission. There would also be administrative inconsistencies that would prevent

full integration of permissions. For example, a non-regulatory approach would not allow the permit terms for recreation area commercial activity permits to be increased, which would mean single integrated permissions would not be able to have a consistent longer permit term.

With regards to the Water Act and the NC Act, administrative changes can achieve some of the policy objectives, but without legislative amendments, gains are limited. Accordingly, to fully achieve the policy objectives, legislative amendments are required.

Estimated cost for government implementation

Environmental Protection Act

Several of the proposed amendments are expected to result in financial savings for both industry and government by reducing administrative processes, fees and regulatory requirements. Key changes that support this include allowing for the creation of ERA codes, removing the need for public interest evaluations during the application process for a PRCP, removing duplicative public notification requirements for environmental impact statement terms of reference, and recognising shared reports and processes under the EP Act and the SDPWO Act.

The amendments trigger changes to regulatory arrangements for small scale mining that will involve removing the requirement for operators to pay a financial surety, resulting in cost savings for both industry and government. The risk to the Queensland Government from small scale miners not fully meeting rehabilitation obligations is considered minimal as there will be conditions requiring that the site is rehabilitated. As financial surety requirements under the EP Act are removed for resource activities transitioning from environmental authorities to ERA codes, existing payments held by the Financial Provisioning Scheme will need to be refunded. These reimbursements will be carried out in stages to manage the impact on government resources.

There will be some financial costs to government in the initial development of ERA codes. For example, to undertake formal consultation and regulation-making processes. These costs will be incurred over time due to the phased implementation of ERA codes and therefore will be met within existing departmental allocations. Some revenue will also be lost transitioning ERAs to regulation via an ERA code instead of an environmental authority due to annual fees not applying to code-managed ERAs.

Waste Reduction and Recycling Act, Water Act and Nature Conservation Act

The amendments to the WRR Act, chapter 3 of the Water Act and NC Act will not present significant additional costs to implement. Any costs will be covered by existing resources of the Department of the Environment, Tourism, Science and Innovation.

The proposed amendments to chapter 3A of the Water Act include clarifying that the head of power to charge a levy relates to all existing functions of the OGIA. This means it will be clear that OGIA is also able to recover costs related to advice functions established by the *Mineral and Energy Resources and Other Legislation Amendment Act 2024* for subsurface impacts

from authorised petroleum and gas activities. The levy covers the amount of the OGIA's estimated costs for the financial year. Any additional costs associated with providing specific advice under the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act), Water Act, or other relevant Act may be recovered by the levy.

Forestry Act and Recreation Areas Management Act

Any additional costs associated with implementation of these amendments will be adequately met by a combination of existing departmental budget, and the funding package allocated for the delivery of Destination 2045.

Consistency with fundamental legislative principles

The Bill has been drafted with regard to the fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992*. The Bill is generally consistent with these provisions. Clauses of the Bill in which FLP issues arise or are perceived, together with the justification for any departure, are outlined below.

Legislation must have sufficient regard to rights and liberties of individuals – *Legislative Standards Act 1992*, s 4(2)(a)

Section 4(2)(a) of the *Legislative Standards Act 1992* provides that legislation should have sufficient regard to the rights and liberties of individuals. The Bill includes provisions relating to individual rights and liberties, however these provisions are considered appropriate in the context of the Bill's objectives and do not unduly infringe those rights.

Sufficient time for commencing proceedings

The Bill amends section 497 of the EP Act and section 267 of the WRR Act to extend the timeframe to bring summary proceedings for offences from one to two years after the commission of the offence. For more complex and serious offences under the EP Act, the timeframe is extended to three years after the commission of the offence. These more complex and serious offences are often indictable offences, but generally will be progressed summarily by the department in accordance with the Director of Public Prosecution's Guidelines so the timeframes in section 497 apply. The amendments potentially impact the rights and liberties of those individuals the administering authority believes may have committed an offence against the EP Act or the WRR Act. Those individuals may consequently be subject to investigative and non-litigious enforcement actions for a longer period of time prior to court proceedings potentially commencing.

While providing greater time to properly investigate, gather necessary evidence and otherwise remedy and resolve matters, the extended time to bring a summary proceeding will require a person to defend any allegation after more time has elapsed since the alleged commission of the offence. Any impact this will have on the rights and liberties of the accused will, however, be mitigated by the accused's knowledge of the matter from the investigation and any non-litigious enforcement actions already undertaken.

The amendments are considered justified as they provide the administering authority with sufficient time to ascertain and gather evidence of an offence and properly bring court proceedings for compliance with the legislation. Such compliance is necessary to reduce the risk of significant harm to the environment and public health and safety. The amendments do not impose retrospective obligations; rather they ensure timeframes are sufficient to allow the administering authority to properly respond to instances of non-compliance.

Single integrated permission

The Bill amends the Forestry Act and RAM Act to allow for the application and granting of a single integrated permission. Whilst this could be seen as limiting the rights and liberties of individuals, both Acts will still allow a person to apply for separate permissions if they choose to do so. For example, an operator may have a business that undertakes a State forest guided tour under a commercial activity permit as well as a snorkelling tour in a recreation area and State marine park under a marine park permission. The operator may have plans to sell one of the businesses in the future, therefore may prefer to have separate permissions allowing for the easy transfer of the permit for the sold business to the new owner. Because the operator is not restricted to applying for a single integrated permission, the amendments are not considered to limit the reasonable and fair treatment of a person.

Legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review – *Legislative Standards Act 1992*, s 4 (2)(a) and 4(3)(a)

As above, section 4(2)(a) of the *Legislative Standards Act 1992* provides that legislation should have sufficient regard to the rights and liberties of individuals. Section 4(3)(a) of the *Legislative Standards Act 1992* provides that legislation should make rights and liberties, or obligations, dependent on administrative power only if that power is sufficiently defined and subject to appropriate review. The Bill includes provisions that confer administrative powers, however, those powers are expressed with clear limits and include review and oversight mechanisms.

The Bill amends section 285 of the EP Act to provide the administering authority with discretion over requiring PRCP schedule audits. Previously, audits were mandated every three years, regardless of rehabilitation progress. The amendment reduces unnecessary regulatory burden and allows resources to be directed toward higher-risk sites, while maintaining environmental oversight.

To preserve the original intent of flexible, risk-based monitoring, the decision to issue an audit notice will generally not be considered an original decision and will not attract review or appeal rights. However, if a notice is issued within three years of the previous audit report, this falls outside the original scope. In such cases, the decision will be treated as an original decision, incorporating internal review and appeal rights to ensure the power is used only in justified circumstances and is subject to oversight.

Legislation should be consistent with the principles of natural justice – *Legislative Standards Act 1992*, s 4(2)(a) and 4(3)(b)

As above, section 4(2)(a) of the *Legislative Standards Act 1992* provides that legislation should have sufficient regard to the rights and liberties of individuals. Section 4(3)(b) of the *Legislative Standards Act 1992* provides that legislation should be consistent with the principles of natural justice. The Bill includes provisions that engage procedural fairness, however, these provisions are designed to ensure affected individuals are given a fair opportunity to be heard and are therefore consistent with natural justice principles.

Single integrated permission

The Bill amends the Forestry Act and RAM Act to allow for the application and granting of a single integrated permission. These amendments are consistent with the principles of natural justice as a decision related to a single integrated permission is subject to the same review rights and proceedings as other decisions relating to individual permits under each Act. The transitional provisions for the Forestry Act provide for continuation of authorised commercial activities and organised events to ensure they are unaffected by the new provisions of the Bill.

PRCP audit

The Bill amends section 285 of the EP Act to provide the administering authority with discretion over requiring PRCP schedule audits. Previously, audits were mandated every three years, regardless of rehabilitation progress. The amendment reduces unnecessary regulatory burden and allows resources to be directed toward higher-risk sites, while maintaining environmental oversight.

To preserve the original intent of flexible, risk-based monitoring, the decision to issue an audit notice will generally not be considered an original decision and will not attract review or appeal rights. However, if a notice is issued within three years of the previous audit report, this falls outside the original scope and may have financial implications for environmental authority holders. In such cases, the decision will be treated as an original decision, incorporating internal review and appeal rights to ensure the power is used only in justified circumstances and is subject to oversight. This targeted approach embeds an element of natural justice by ensuring that audit notices issued earlier than anticipated are subject to scrutiny. This provides environmental authority holders with a means to challenge decisions that may not align with the intended risk-based approach, while preserving the administering authority's ability to act where justified.

Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively – *Legislative Standards Act 1992*, s 4(2)(a) and 4(3)(g)

As above, section 4(2)(a) of the *Legislative Standards Act 1992* provides that legislation should have sufficient regard to the rights and liberties of individuals. Section 4(3)(g) of the *Legislative Standards Act 1992* provides that legislation should not adversely affect rights and liberties, or impose obligations, retrospectively. Legislation is considered retrospective if it imposes obligations, liabilities, or consequences from a date prior to its enactment.

Compliance with new ERA codes

The Bill could be perceived as imposing retrospective obligations by requiring compliance with new ERA codes, regardless of whether the activities are authorised under existing environmental authorities or currently do not require any authorisation. However, except for activities currently subject to a small scale mining tenure (addressed separately below), no changes to the level of regulation of ERAs is proposed as part of this Bill. Rather, the Bill establishes a process for making these changes prospectively.

The inclusion of a transitional regulation-making power could impose obligations retrospectively. However, any inconsistency is justified by the inclusion of adequate safeguards to strike the right balance between legal continuity during the transitional period and any limitation on this fundamental legal principle. Therefore, the Bill does not adversely affect rights and liberties or impose obligations retrospectively.

Future ERA codes

The Bill provides a head of power for a regulation to declare certain ERAs to be code-managed ERAs. For existing environmental authority holders for relevant ERAs, codes will not automatically apply to pre-authorised activities. Persons will be able to opt out of operating under the ERA code entirely. Specifically, if a person notifies the administering authority of their intent to continue to operate under their existing environmental authority within 12 months after a new ERA code takes effect, they may continue to do so. Any person that has made an application for an environmental authority which has not been decided upon commencement of an ERA code can also opt out. Furthermore, there will be flexibility for new operators to apply for an environmental authority instead of operating under the conditions prescribed by the relevant ERA code.

Small scale mining activities

Transitional provisions will be provided to continue the prescribed conditions for small scale mining activities and the Act as in force before the commencement until such time that the activity is transitioned to an ERA code or an environmental authority.

Once a new ERA code for small scale mining activities is made, all new activities will be required to operate under the code or obtain an environmental authority. For pre-existing small scale mining activities (those operating under prescribed conditions stated in the *Environmental Protection Regulation 2019*), a 12-month transition period will begin. During this period, operators must notify the administering authority of their intention to operate under the ERA code or obtain an environmental authority.

ERA codes will not impose new obligations retrospectively, as it is intended that they will carry over existing prescribed conditions that currently apply to these activities under regulation, with any changes made in consultation with industry. The ERA codes will be designed with the intent of maintaining the status quo for these existing operations, allowing operators to continue business as usual once transitioned. The exception to this is that any financial surety

that has been provided by an existing small scale mining operator will be refunded, as financial surety is no longer required under the new framework for code-managed ERAs.

Transitional regulation-making power

The Bill includes a transitional regulation-making power to manage any unforeseen issues that may arise during the transition to the new legislative framework. This power could allow a regulation to operate retrospectively, which engages the fundamental legislative principle that laws should not have retrospective effect.

To ensure the provision remains consistent with fundamental legislative principles, several constraints have been included to limit its operation. The power only allows retrospective operation from the date of commencement of the relevant amendment, and not before. In addition, any transitional regulations must be expressly declared and limited in duration, providing a safeguard against unintended retrospective application. The provision is also subject to a two year sunset clause, ensuring the power is used only to address genuine transitional matters during the initial implementation period. While the inclusion of the transitional regulation-making power may engage section 4(3)(g), it is considered justified given the complexity of the reforms and the need to ensure their smooth and effective implementation.

Baseline assessment strategy (chapter 3 Water Act)

The Bill could be perceived as imposing retrospective obligations by requiring compliance with the new baseline assessment strategy for a cumulative management area (CMA) UWIR) regardless of whether a baseline assessment plan has already been approved for the relevant tenure or not. However, transitional arrangements provide that existing approved baseline assessment plans must be provided to the OGIA within a reasonable period (60 business days) of the new provisions commencing. In building the baseline assessment strategy for a CMA UWIR, the OGIA would consider the existing plans and may only consider additional obligations for relevant tenure holders prospectively.

Provisions for consultation on an UWIR and regular amendments to the baseline assessment strategy also ensure that any obligations imposed upon tenure holders are consulted upon with tenure holders and bore owners prior to approval.

Make good agreements

The Bill introduces a provision about make-good agreements (chapter 3 of the Water Act) that may be perceived as retrospective. This is due to the introduction of a limitation to the scope of matters that may be considered under a make-good agreement. However, transitional arrangements provide that any existing make-good agreements in place before commencement are not affected by the changes to the provisions, provided any other matters are explicitly provided in the agreement.

Legislation must have sufficient regard to the institution of Parliament – *Legislative Standards Act 1992,* s 4(2)(b) and 4(4)

Section 4(2)(b) of the *Legislative Standards Act 1992* provides that legislation should have sufficient regard to the institution of Parliament. Section 4(4) of the *Legislative Standards Act 1992* expands on this principle, stating that whether legislation has sufficient regard to the institution of Parliament depends on, for example, whether it allows the delegation of legislative power only in appropriate cases and to appropriate persons, and whether it sufficiently subjects the exercise of delegated legislative power to the scrutiny of the Legislative Assembly.

Defining ERAs

The Bill replaces chapter 1, part 3, division 2, subdivision 4 of the EP Act to ensure that a consistent, risk-based approach is taken when defining and regulating ERAs. Under the pre-amended Act, ERAs were regulated inconsistently via a mix of primary and subordinate legislation depending on the ERA type. Moving forward, section 19 of the EP Act will require activities considered resource ERAs and general ERAs to all be prescribed by regulation.

While technically a sub-delegation of legislative power, the prescription of activities by regulation is considered appropriate as it allows the ERA framework to take a more targeted, nuanced approach and respond to emerging industries, technological developments, and new environmental information without requiring amendment to the Act. The Bill also establishes safeguards to ensure that regulations are made appropriately. For example, under the Act the Minister may only recommend an activity be prescribed as an ERA if satisfied that certain criteria have been met. As regulations must be tabled in Parliament and subject to disallowance, sufficient regard is had to the institution of Parliament while ensuring the prescription of ERAs is appropriate and responsive.

Transitioning activity to an ERA

While the Bill inserts new section 19(5) and (6) into the EP Act to allow for a regulation to temporarily exempt a person from certain Act provisions where an activity has newly become an ERA (e.g. section 426), it does so with sufficient regard to the institution of Parliament. While technically a sub-delegation of legislative power, the Bill provides for this temporary exemption only in the transitional context where an activity becomes newly regulated. The Bill also includes safeguards to ensure sufficient regard is had to the institution of Parliament (i.e. any regulation made under these subsections must be tabled in Parliament and is subject to disallowance). In addition, the transitional exemption is limited in scope, ensuring that the power can only be exercised for the purpose of allowing operators reasonable time to achieve compliance with the Act. As a result, the Bill maintains appropriate oversight by Parliament while providing necessary flexibility for operators affected by changes to ERA prescriptions.

ERA codes

ERA codes will include rules and requirements in the form of conditions that limit the way an ERA can be undertaken under the Act. The development of all ERA codes will include a

comprehensive consultation process similar to the process for the making of ERA standards under chapter 5A part 1 of the EP Act, including impact assessment, public notification and consideration of submissions. Importantly, the final codes will be subject to parliamentary oversight through the tabling and disallowance process under the *Statutory Instruments Act 1992*. This ensures that Parliament retains the ability to disallow any new ERA code, thereby maintaining appropriate regard for the institution of Parliament.

Transitional regulation-making power

The Bill provides a transitional regulation-making power to allow delegated legislation to fill any implementation gaps and to facilitate the operation of the Act following commencement. This provision has been included to cover any risk of something unforeseen happening prior to commencement. This could be perceived as bypassing full parliamentary scrutiny for amendments that should be legislated, particularly where such regulations could alter rights or obligations commencement. However, this approach is justified given the complexity of the Bill and the fact that safeguards are included to ensure sufficient regard is had to the institution of Parliament. The use of this power to make regulatory amendments will remain subject to parliamentary oversight and will be subject to disallowance. Additionally, the section is narrowly scoped (applying only to matters necessary to facilitate the transition) and time-bound, expiring two years after commencement. The use of this power will be transparent, requiring regulations to be expressly declared as transitional. This ensures that Parliament retains the ability to oversee and, if necessary, disallow any transitional regulations, thereby maintaining appropriate regard for the institution of Parliament.

Declaring environmental values and areas that are significant environmental values

New section 9A of the EP Act enables a regulation or an environmental protection policy to declare certain environmental values as *significant environmental values*. This provision establishes a mechanism for formally recognising environmental values that warrant particular protection or consideration under the Act.

The delegation of this power to subordinate legislation is justified on the basis that decisions about which environmental values are considered significant are inherently technical and may require timely updates in response to emerging scientific evidence, environmental risks, or policy developments. It is not feasible to anticipate all relevant matters in the primary legislation, and it would not be practical or efficient to require an Act of Parliament for each change to the list.

The ability to prescribe additional matters by regulation or environmental protection priorities will allow for the timely addition or amendment of declared significant environmental values without the need for primary legislative amendment. This approach supports the effective administration of the legislation by allowing government to act swiftly and appropriately in identifying and protecting environmental values of particular importance and ensuring the framework remains responsive and adaptive to emerging environmental priorities.

The approach is consistent with the principles outlined in section 4(4)(b) of the *Legislative Standards Act 1992*, which recognises that it may be appropriate for matters to be dealt with

by subordinate legislation where they are of a technical or detailed nature, or where flexibility is required to respond to changing circumstances.

Importantly, the regulation-making power remains subject to parliamentary oversight through the tabling and disallowance process under the *Statutory Instruments Act 1992*. This ensures that Parliament retains the ability to scrutinise and, if necessary, disallow any regulation or environmental protection policy that declares significant environmental values, thereby maintaining appropriate regard for the institution of Parliament.

Legislation must have sufficient regard to the institution of Parliament – *Legislative Standards Act 1992*, s 4(4)(b) - sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly

Section 4(4)(b) of the *Legislative Standards Act 1992* provides that, in assessing whether legislation has sufficient regard to the institution of Parliament, consideration should be given to whether the Bill sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly.

<u>New environmental authority holder and PRCP submission</u>

The Bill inserts new section 848 of the EP Act, which provides that the administering authority may issue a restart notice to a new environmental authority holder (transferee) with a time-period to prepare and submit a PRCP for assessment under section 802. During this period, the offence under section 431A is disapplied. This arrangement engages the fundamental legislative principle in section 4(4)(b) of the *Legislative Standards Act 1992* because it delegates to the administering authority the power to effectively suspend the operation of an offence provision.

This approach ensures flexibility for a new environmental authority holder who is transitioning into the PRCP framework and requires adequate time to prepare a compliant application. Without this mechanism, the holder could be exposed to an offence under section 431A despite acting in good faith to meet statutory requirements, which would be unreasonable and contrary to the intent of the transitional process.

The restart notice for the transferee aligns with the timeframes established under section 754, which applied to the former environmental authority holder. Under section 754, the administering authority could issue a notice requiring the holder to prepare and submit a plan within a specified period determined by the authority of not less than six months. During that period, the offence under section 431A did not apply, ensuring the holder was not penalised while complying with the requirement. Section 848 operates in a similar way by resetting the process for the new holder, removing the effect of the earlier notice, and allowing the holder to maintain lawful operations while preparing the application. This mechanism provides continuity between the previous and current processes. The provision can only apply to a specific and known cohort of environmental authority holders who are needing to complete their transition into the framework and is therefore limited in application.

Consultation

Environmental Protection Act, Waste Reduction and Recycling Act, Water Act and Nature Conservation Act

Consultation has been undertaken with key industry, legal, local government, conservation, and Aboriginal peoples and Torres Strait Islander peoples representative groups, including: AgForce, Association of Mining and Exploration Companies, Australian Energy Producers, Australian Barramundi Farmers Association, Australian Flexible Pavement Association, Australian Tyre Recyclers Association, Australian Prawn Farmers Association, Bar Association of Queensland, Cement Concrete and Aggregates Australia, Environmental Defenders Office, Local Government Association of Queensland and individual local governments, Lock the Gate Alliance Ltd, Queensland Conservation Council, Queensland Farmers Federation, Queensland Law Society, Queensland Renewable Energy Council, Queensland Resources Council, Waste Management and Resource Recovery Association of Australia and Waste Recycling Industry Association of Queensland. Some of these groups were only consulted on specific amendments and/or at specific stages of the process.

Initial consultation was undertaken through the release of a consultation paper on 10 June 2025. The consultation paper presented options for possible amendments related to implementing efficiencies and addressing a wide array of issues. The consultation period was open for four weeks and any person or organisation could make a submission. The submission period closed on 14 July 2025. All submissions were reviewed and considered in the development of the Bill.

After release of the consultation paper, briefings on the proposed amendments were undertaken with representatives from key stakeholder groups to discuss any queries or concerns with the proposals. Where appropriate, modifications were made to the proposed amendments to address the feedback received.

Further consultation was carried out on an exposure draft of the Bill, provided to targeted stakeholders from 24 September 2025. Supplementary information to aid interpretation of the exposure draft of the Bill accompanied the release of the exposure draft. Draft ERA codes were also provided to relevant groups for feedback. Briefings were undertaken with representatives from key groups during this time to further discuss the proposed amendments. Feedback was invited until 17 October 2025 and informed the finalisation of the Bill prior to introduction into Parliament.

Additional workshops were also conducted for representative groups of Aboriginal peoples and Torres Strait Islander peoples, including: Girringun Aboriginal Corporation, Mbabaram Aboriginal Corporation, North Queensland Land Council, Queensland South Native Title Services, Warga Badda Nywaigi Aboriginal Corporation and Warrgamay Traditional Owners Aboriginal Corporation.

All amendments have undergone regulatory impact analysis in accordance with *The Queensland Government Better Regulation Policy*.

Forestry Act and Recreation Areas Management Act

The *Destination 2045: Delivering Queensland's Tourism Future Discussion Paper* was open for public consultation from 18 December 2024 until 28 February 2025 and was supported by a comprehensive communications campaign. During this process public meetings were held at multiple locations around Queensland and public submissions were received in response to the discussion paper. The Bill has been developed in response to the issues identified during this process regarding a desire for a single integrated permission to support the tourism industry. The Bill implements initiative 1.2 in the Destination 2045 strategy which states "enable a single permission for tourism operations on protected areas to streamline the permitting process for business".

The amendments to deliver the Destination 2045 initiative provide for the combining of existing permitting arrangements to provide the option for the grant of an integrated permission, which is subject to the same requirements regarding assessment and grant as individual permits – therefore there is no expansion beyond existing authorisation parameters and existing environmental protections continue to apply. As a consequence of the nature of these changes, and the significant consultation undertaken as part of the development of the Destination 2045 strategy, no further public consultation has been undertaken in relation to delivery of the amendments associated with this aspect of the Bill.

Targeted consultation occurred with HQ Plantations, on matters related to management of State Plantation Forests under the Forestry Act.

Consultation occurred with the Great Barrier Reef Marine Park Authority who regulate tourism activities within the Commonwealth Great Barrier Reef Marine Park. The Great Barrier Reef Marine Park Authority expressed no reservations regarding progression of the tourism related amendments in the Bill.

Consistency with legislation of other jurisdictions

The amendments to the EP Act and the WRR Act, which extend the timeframes for commencing summary proceedings for offences, more closely align with the timeframes set out in the environmental protection and management legislation in New South Wales, South Australia, Tasmania, the Northern Territory and Western Australia.

The amendments to the Forestry Act and RAM Act provide for granting of a single integrated permission for tourism activities, which may include a marine park permission. There are existing requirements for State marine park legislation to be complimentary with provisions in the Commonwealth legislation used to manage the Great Barrier Reef Marine Park. This Bill does not change or otherwise affect the existing arrangements between Queensland and the Commonwealth government regarding management of activities in the Great Barrier Reef Region.

With regards to all other amendments being made, the Bill is specific to the State of Queensland and is not uniform with or complementary to legislation of the Commonwealth or another state.

Notes on provisions

Part 1 Preliminary

Clause 1 Short title

This clause states that the short title is the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Bill 2025.*

Clause 2 Commencement

This clause states that the following provisions in this Bill commence on a day to be fixed by proclamation:

- part 2, division 3;
- parts 3 to 7;
- parts 9 to 12;
- sections 182 and 183; and
- schedule 1, part 2.

The remaining provisions commence on assent.

Part 2 Amendment of Environmental Protection Act 1994

Division 1 Preliminary

Clause 3 Act amended

This clause states that this part amends the *Environmental Protection Act 1994*.

Division 2 Amendments commencing on assent

Clause 4 Amendment of s 39 (Other definitions)

This clause amends the section 39 definitions for an environmental impact statement process to omit the definition of 'comment period' and update the definition of 'submission period' to reference the new section 68(3)(b). The amendments are part of the streamlining measure to remove the requirement to publish the draft terms of reference for an environmental impact statement.

Clause 5 Amendment of s 41A (Decision on draft terms of reference)

This clause amends section 41A of the EP Act to:

- omit references to public notification from subsections (1)(b), (3) and (4);
- replace the reference to section 42(1) in subsection (1)(c) with a reference to subsection (4) or (5); and

- insert a new subsection (5) requiring the chief executive to give the proponent written notice about the decision to allow the draft terms of reference to proceed and the steps the chief executive must take under section 46.

The amendments are part of the streamlining measure to remove the requirement to publish the draft terms of reference for an environmental impact statement.

Clause 6 Omission of ch 3, pt 1, div 2, sdiv 2 (Public notification of draft terms of reference)

This clause omits chapter 3, part 1, division 2, subdivision 2 from the EP Act, which removes sections 42 to 45. This omission removes the requirements for public notification of draft terms of reference for the environmental impact statement. The amendments are part of the streamlining measure to remove the requirement to publish the draft terms of reference for an environmental impact statement.

Clause 7 Amendment of s 46 (Finalising terms of reference)

This clause amends section 46 of the EP Act to:

- insert a new subsection providing for the section to apply if the chief executive decides to allow the draft terms of reference to proceed under section 41A(1)(b); and
- omit the subsection (1)(a) requirement relating to section 45; and
- renumber the subsections (1)(b) to (d) and subsections 46(1AA) to (2) as a result of the abovementioned amendments.

The amendments are part of the streamlining measure to remove the requirement to publish the draft terms of reference for an environmental impact statement.

Clause 8 Amendment of s 49 (Decision on whether EIS may proceed)

This clause amends section 49 of the EP Act to omit the relevant subsections associated with the public interest evaluation requirements. This amendment aligns with the broader removal of those requirements from the EP Act.

Clause 9 Amendment of s 56 (Response to submissions)

This clause amends section 56 of the EP Act to omit the relevant subsections associated with the public interest evaluation requirements. This amendment aligns with the broader removal of those requirements from the EP Act.

Clause 10 Amendment of s 56A (Assessment of adequacy of response to submission and submitted EIS)

This clause amends section 56A of the EP Act to omit the relevant subsections associated with the public interest evaluation requirements. This amendment aligns with the broader removal of those requirements from the EP Act.

Clause 11 Amendment of s 65 (Public access to draft terms of reference or submitted EIS)

This clause amends the heading of section 65 of the EP Act to omit the reference to draft terms of reference, and the section 65 content to omit reference to draft terms of reference for an environmental impact statement. The amendments are part of the streamlining measure, removing the requirement to publish the draft terms of reference of an environmental impact statement for a proposed resource project.

Clause 12 Amendment of s 67 (Process is suspended)

This clause amends section 67(3) of the EP Act to omit the reference to draft terms of reference. The amendments are part of the streamlining measure to remove the requirement to publish the draft terms of reference for an environmental impact statement.

Clause 13 Amendment of s 68 (Substantial compliance with notice requirements may be accepted)

This clause amends section 68 of the EP Act to:

- omit the reference to division 2, subdivision 2 from subsection (1);
- replace subsection (3)(b) with the requirement for the chief executive to fix a new submission period only;
- omit the reference to the comment period from subsection (4); and
- omit the reference to section 43(3) from subsection (5).

The amendments are part of the streamlining measure to remove the requirement to publish the draft terms of reference for an environmental impact statement.

Clause 14 Amendment of s 112 (Other key definitions for ch 5)

This clause amends section 112 of the EP Act to omit the definitions of 'public interest evaluation' and 'public interest consideration'. These definitions referenced section 316PA, which is being repealed as part of the broader removal of the public interest evaluation process from the EP Act.

Clause 15 Amendments of s 125 (Requirements for applications generally)

This clause amends section 125 of the EP Act to include a reference to an impact assessment report completed under the *State Development and Public Works Organisation Act 1971*. These amendments are part of streamlining measures aimed at recognising the impact assessment report and its associated processes as satisfying certain requirements for subsequent environmental authority applications. This helps reduce duplication and deliver regulatory efficiencies.

The insertion of the reference into section 125(3) ensures that subsection 125(1)(l), which outlines specific application requirements for an environmental authority, does not apply to variation or site-specific environmental authority applications where the Coordinator-General has completed an evaluation of an impact assessment report for each relevant activity and has stated conditions for those activities, provided subsection (3)(b) is also satisfied.

Similarly, the reference inserted into section 125(6) ensures that the existing exception, where (1)(l) does not apply to a variation or site-specific application, and subsection (1)(n) does not apply to site-specific applications for mining activities relating to a mining lease, includes reference to an impact assessment report in addition to an environmental impact statement.

The amended subsection 125(6)(c) applies where an environmental authority application is made after the Coordinator-General has declared the project a coordinated project requiring an environmental impact statement or impact assessment report, but the evaluation has not yet been completed.

Clause 16 Amendment of s 126 (Requirements for site-specific applications—CSG activities)

This clause amends section 126 of the EP Act to include reference to an impact assessment report in addition to an environmental impact statement by amending section 126(3)(a). This amendment provides that section 126 does not apply to site-specific applications for coal seam gas activities where the Coordinator-General has evaluated an impact assessment report or an environmental impact statement and stated conditions for the activity. For section 126 to not apply, the environmental risk assessment undertaken through the impact assessment report (or environmental impact statement) would need to be equivalent to an assessment that would apply if the application were not associated with a coordinated project.

These changes form part of broader streamlining measures to provide that the EP Act recognises the impact assessment report and associated processes under the *State Development and Public Works Organisation Act 1971*, helping to reduce duplication and improve regulatory efficiency.

Clause 17 Amendment of s 126D (Requirements for proposed PRCP schedule)

This clause amends section 126D of the EP Act to omit the relevant subsections associated with the public interest evaluation requirements. This amendment aligns with the broader removal of those requirements from the EP Act.

Clause 18 Insertion of new s 126E

This clause inserts new section 126E to provide the definition of public interest considerations, which is consistent with omitted requirements under section 316PA(2)(a) to 316PA(2)(e). This amendment is consistent with the removal of the public interest evaluation process.

Section 126E Public interest considerations for s 126D

This new section inserts the definition of public interest considerations, consistent with omitted section 316PA(2)(a) to 316PA(2)(e). This amendment ensures that key elements of the former public interest evaluation process are retained within the assessment application requirements. By inserting these considerations, the administering authority will continue to receive the necessary information to assess the Progressive Rehabilitation and Closure Plan (PRCP) in a way that appropriately addresses public interest matters.

Clause 19 Omission of s 136A (Administering authority must obtain report about public interest evaluation for particular applications)

This clause omits section 136A of the EP Act, which relates solely to the requirement to obtain a public interest evaluation report. As public interest evaluations are being removed from the EP Act, the requirement to obtain such a report is no longer necessary. This amendment aligns with the broader removal of those requirements from the EP Act.

Clause 20 Amendment of s 139 (Information stage does not apply if EIS process complete)

This clause amends section 139 of the EP Act to include reference to impact assessment report by amending section 139(1). This amendment ensures that the information stage also does not apply to environmental authority applications where the Coordinator-General has completed the evaluation of an impact assessment report for the relevant activities and stated conditions, subject to compliance with subsection (1)(b).

Additionally, subsection (1)(b)(ii) is amended by replacing with a revised formulation, clarifying that the information stage will apply to the application unless all of subsections to subsection (1)(b)(ii) are met in respect of the relevant PRCP. Reference to an impact assessment report is included in subsection (1)(b)(ii)(C) in addition to an environmental impact statement for substantiating the impacts on environmental values from a post-mining land use or non-use management area.

These changes form part of broader streamlining measures to provide that the EP Act recognises the impact assessment report and associated processes under the *State Development and Public Works Organisation Act 1971*, helping to reduce duplication and improve regulatory efficiency.

Clause 21 Amendment of s 150 (Notification stage does not apply to particular applications)

This clause amends section 150 of the EP Act by replacing subsection (1) to include three limbs to application of the section. The environmental impact statement process under the EP Act and the environmental impact statement process under the *State Development and Public Works Organisation Act 1971* are retained in triggering the section, and reference to the impact

assessment report process under the *State Development and Public Works Organisation Act 1971* is also included.

The effect of the amendment is that the notification stage will not apply to environmental authority applications where the relevant activities were publicly notified through an environmental impact statement or impact assessment report under the *State Development and Public Works Organisation Act 1971*, and the Coordinator-General has completed their evaluation and stated conditions. For a site-specific application relating to a mining lease, the proposed PRCP must also have been publicly notified with the environmental impact statement or impact assessment report for the notification stage to not apply to the application.

This exclusion is subject to new subsection (1)(b), which provides that no changes to the environmental risks of the activity, or only such changes that the administering authority is satisfied would not likely attract an objecting submission, could have been made since public notification. Similarly for a PRCP, the post mining land use, non-use management area, or nominated day for achieving stable condition has not changed between the time of public notification and the submission of the environmental authority application.

Subsection (3) is also amended to include reference to an impact assessment report, with the effect that a properly made submission about the impact assessment report is taken to be a properly made submission about the environmental authority application. Additionally, subsection (4) is omitted, as the existing references to an environmental impact statement within the section are sufficiently clear in encompassing both environmental impact statement processes under the EP Act and the *State Development and Public Works Organisation Act 1971*.

These changes form part of broader streamlining measures to provide that the EP Act recognises the impact assessment report and associated processes under the *State Development and Public Works Organisation Act 1971*, helping to reduce duplication and improve regulatory efficiency.

Clause 22 Omission of ss 167A and 167B

This clause omits sections 167A and 167B of the EP Act, which relate to the decision stage of the application process and the consideration of the public interest evaluation report. As public interest evaluations are being omitted from the EP Act, the requirement to obtain and consider such a report is no longer necessary. This amendment aligns with the broader removal of those requirements from the EP Act.

Clause 23 Amendment of s 176A (Criteria for decision—proposed PRCP schedule)

This clause amends section 176A of the EP Act to omit the relevant subsections associated with the public interest evaluation requirements. This amendment aligns with the broader removal of those requirements from the EP Act.

Clause 24 Amendment of s 205 (Conditions that must be imposed if application relates to coordinated project)

This clause omits sections 205(3) of the EP Act, which relate to addressing potential inconsistency between conditions recommended by the Coordinator-General and recommendations provided through the public interest evaluation report. As public interest evaluation reports are being omitted from the EP Act, the requirement to obtain and consider such a report is no longer necessary. This amendment aligns with the broader removal of those requirements from the EP Act.

This clause also amends the note to section 205 of the EP Act to clarify the way in which the Coordinator-General may state conditions for an impact assessment report under the *State Development and Public Works Organisation Act 1971* in addition stating conditions in evaluating an environmental impact statement.

Clause 25 Amendment of s 226A (Requirements for amendment applications for environmental authorities)

This clause amends section 226A of the EP Act to include reference to the impact assessment report process into the processes described in subsection (2). The effect of the amendment is that the requirement for the impact assessment described in subsection (1)(f) will not apply to applications for the amendment of environmental authorities where the Coordinator-General has completed their evaluation of an impact assessment report for the proposed amendment and the Coordinator-General has stated conditions that relate to the proposed amendment, provided that subsection (2)(b) can be satisfied.

These changes form part of broader streamlining measures to provide that the EP Act recognises an impact assessment report and associated processes under the *State Development and Public Works Organisation Act 1971*, helping to reduce duplication and improve regulatory efficiency.

Clause 26 Amendment of s 226B (Requirements for amendment applications for PRCP schedules)

This clause amends section 226B of the EP Act to exclude applications for minor amendments to a progressive rehabilitation closure plan schedule from the requirement to provide the information outlined in section 126C as part of their application material. This change streamlines administrative processes and reduces regulatory burden by recognising that minor amendments generally do not materially impact rehabilitation outcomes or environmental risks.

Clause 27 Amendment of s 238 (Effect on assessment of amendment application—other changes)

This clause amends section 238 of the EP Act to omit the ten business days limitation in subsection (3)(b). This clause also adds subsections stating that, if the information stage applies to a changed application, the information stage restarts. Any request for further information

needed to assess the changed application must be made within the same number of business days that would apply under section 144 (as applied by section 232), starting from the later of:

- the day the notice of change is received; or
- the day the section 236(1)(b) fee is paid.

This amendment corrects section 238 to ensure it reflects the intended operation of the section. Specifically, when a change to an environmental authority amendment application process is not a minor or an agreed change, the assessment process must stop on the day the administering authority receives the change notice. If the information stage applies, the process must then restart from the beginning of the information stage.

Clause 28 Amendment of s 271 (Payment may be required for residual risks)

This clause amends section 271 of the EP Act to remove ambiguity around the term 'stated reasonable period'. The amendment clarifies that the payment period is a period of six months from the day the written notice is given to the applicant. If the residual risk requirement is not complied with within this period, the requirement lapses, and a new surrender application must be made to surrender the environmental authority.

Clause 29 Insertion of new s 273A

This clause inserts new section 273A into the EP Act to allow for the extension of the six-month period mentioned in section 271 of the Act if necessary.

Section 273A Extension of period for payment

This new section gives the administering authority the power to extend the original payment period mentioned in section 271(2) of the EP Act. The extension may only be granted if the administering authority considered it necessary to assist the applicant in complying with the requirement mentioned under section 271 of the Act. The extension must be made before the end of the original residual risk requirement period and be agreed to in writing by the applicant. Only one extension under this section may be given.

Clause 30 Amendment of s 274 (Directions to carry out rehabilitation may be given if surrender refused)

This clause amends section 274 of the EP Act to update the reference from 'rehabilitation direction' to 'surrender rehabilitation direction'. This amendment will help distinguish between a rehabilitation direction notice issued following a surrender refusal and the new 'general rehabilitation direction' which is being introduced.

Clause 31 Amendment of s 276 (Restriction on surrender taking effect if payment required for residual risks)

This clause amends section 276 of the EP Act because of the amendments being made to sections 271 and 273A of the Act. This amendment clarifies that a surrender cannot take effect if the applicant fails to comply with the residual risk requirement made under the Act. This means that, for example, annual fees must continue to be paid until the surrender takes effect. As mentioned above, if the applicant fails to comply with the residual risk requirement within the stated period, a new surrender application must be submitted.

Clause 32 Amendment of s 285 (PRCP schedule must be audited)

This clause amends section 285 of the EP Act to provide the administering authority with discretion to require audits of PRCP schedules, when necessary, rather than on a fixed three-year cycle. While the audit requirement is retained, the amendment introduces a more flexible approach, allowing audits to be conducted at key points throughout the life of the mine. However, it is intended that these audits will occur at an appropriate frequency to ensure that progress towards approved rehabilitation milestones and final outcomes continues to be monitored and achieved prior to final surrender.

Prior to amendment, the three-year audit cycle did not account for the stage or status of rehabilitation activities. The fixed interval created a significant administrative and financial burden for both industry and government. In many cases, audits would be required even when rehabilitation milestones had not yet commenced, resulting in limited value for compliance monitoring and environmental oversight.

While the core legislative requirements for conducting and submitting an audit report remain unchanged, the amendment shifts the audit trigger to a discretionary decision by the administering authority. This change will enable more targeted and efficient regulatory oversight, ensuring audits are conducted when they are most meaningful and necessary.

Additionally, the amendment provides the administering authority with the ability to require an audit within the three-year period under exceptional circumstance. This is intended to be used sparingly, in response to identified risk or concerns that warrant an immediate understanding of rehabilitation progress. To ensure procedural fairness, the environmental authority holder will have review and appeal rights against the issuing of an audit notice given within a three-year period.

Clause 33 Omission of ch 5, pt 15, div 4A (Public interest evaluations)

This clause omits sections 316PA-316PE from the EP Act to remove the public interest evaluation process. Under the pre-amended Act, this process assessed the public interest considerations related to proposed non-use management areas. These provisions had introduced unnecessary complexity, delays, and costs without delivering clear benefits. To ensure public interest is considered as part of assessing an application, the definition of ‘public interest considerations’, formerly found in section 316PA, is now incorporated into new section 126E. This provides that these considerations remain part of the PRCP application

requirements, while streamlining the overall process. Additionally, transitional provisions specify, in circumstances where a public interest evaluation report has been completed, how the report will be considered in the decision-making. The provisions also require that the report be retained in the relevant registers and that existing confidentiality obligations are upheld.

Clause 34 Insertion of new s 316S

This clause inserts new section 316S of the EP Act that provides the requirements for issuing a 'general rehabilitation notice'.

Section 316S Direction to carry out rehabilitation if no PRCP schedule

This new section of the EP Act inserts a provision for issuing a general rehabilitation direction notice. It enables the administering authority to issue this notice in the circumstance where the environmental authority holder does not have an approved PRCP schedule and a surrender rehabilitation notice has not been issued. This provision ensures that, in the absence of an approved PRCP schedule, the administering authority retains the ability to require essential rehabilitation and environmental management activities. This supports the continued environmental oversight and compliance, helping to manage potential risks and uphold progressive rehabilitation requirements.

Clause 35 Amendment of s 359 (Meaning of *enforcement ground*)

This clause amends section 359 of the EP Act to introduce additional grounds for issuing an environmental enforcement order under section 362 of the EP Act. These new grounds include seeking compliance with a surrender rehabilitation direction or general rehabilitation direction notice. The amendment strengthens the enforcement framework by explicitly recognising these breaches as enforceable through environmental enforcement orders.

Clause 36 Replacement of s 431A (PRCP schedule required for particular environmentally relevant activities)

This clause omits the existing section 431A of the EP Act and replaces it with a new provision.

Section 431A PRCP schedule required for particular environmental authorities

This new section removes the requirement that the relevant activity must be occurring for an offence to apply in relation to not holding an approved PRCP schedule. This change targets compliance activity to the PRCP schedule itself and does not place any limit on the conduct of the activity. The effect of this provision is that if an environmental authority holder fails to obtain an approved PRCP schedule through the transitional process, they may be committing an offence and could be subject to enforcement action related to a PRCP schedule.

Clause 37 Amendment of s 444I (Functions)

This clause amends section 444I(a) of the EP Act to omit the relevant subsections associated with the public interest evaluation requirements. This amendment aligns with the broader removal of those requirements from the EP Act.

Clause 38 Replacement of ss 462 and 463

This clause replaces sections 462 and 463 of the EP Act to allow the regulator to retain seized evidence of an offence for the duration of the proceedings for the offence, including any prosecution and appeals. It also provides for the issuing of receipts and information about the seized thing, as well as procedures for access to and the return of the seized thing. The purpose of the new sections is to improve efficiency and ensure stronger protections in the investigation and prosecution of offences under the Act.

Section 462 Power to secure seized thing

This new section gives an authorised person discretionary powers after seizing a thing under chapter 9. The authorised person may either leave the thing at the place of seizure and take reasonable steps to restrict access to it, or remove the thing from that location.

If the thing is left at the place of seizure, the authorised person may, for example:

- seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted;
- for equipment—make it inoperable; or
- require a person reasonably believed to be in control of the place or thing to carry out any of the above actions, or anything else an authorised person could do under subsection (1)(a).

An example of making equipment inoperable includes by dismantling it or removing a component necessary for its use.

Section 463 Offence to contravene seizure requirement

New section 463 creates an offence for failing to comply with a requirement made under section 462(2)(c), unless the person has a reasonable excuse. A maximum penalty of 165 penalty units is set for the offence.

Section 463A Offence to interfere

This new section creates two offences for interfering with a seized thing and for interfering with the restricted access to a place of seizure. Where access to a seized thing is restricted under new section 462, it is an offence to tamper with the thing or with anything used to restrict access to the thing without an authorised person's approval or a reasonable excuse. A maximum penalty of 165 penalty units is set for the offence.

Where access to a place is restricted under new section 462, it is an offence for a person to enter the place in contravention of the restriction or tamper with anything used to restrict access to the place without an authorised person's approval or a reasonable excuse. A maximum penalty of 165 penalty units is set for the offence.

Section 463B Receipt and information notice for seized thing

This new section provides for a receipt and information notice to be given for a seized thing. The new section applies if an authorised person seizes anything under chapter 9 unless:

- the authorised person reasonably believes no-one is apparently in possession of the seized thing;
- the seized thing has been abandoned; or
- because of the condition, nature and value of the seized thing, it would be unreasonable to require the authorised person to provide a receipt or information notice.

As soon as practicable after seizing the thing, the authorised person must give an owner or person in control of the thing before it was seized a receipt and an information notice about the decision to seize the thing. The receipt must generally describe the thing and its condition.

If an owner or person from whom the thing is seized is not present when the thing is seized, the receipt and information notice may be given by leaving them in a conspicuous position and in a reasonably secure way at the place where the thing is seized. The receipt and information notice may be given in the same document and relate to more than one seized thing.

The authorised person may delay giving the receipt and information notice if they reasonably suspect that giving them may frustrate or otherwise hinder an investigation by the authorised person under chapter 9. The delay may only be for so long as the authorised person continues to have the reasonable suspicion and the authorised person or a person acting under their direction remains in the vicinity of the place where the thing was seized to keep the thing secure or under observation.

Section 463C Access to seized thing

This new section provides an owner access to their seized thing. Until a seized thing is forfeited or returned, the authorised person who seized the thing must allow an owner of the thing to inspect it at any reasonable time and from time to time, and if the seized thing is a document, allow an owner of the document to copy it. The access does not apply if it is impracticable or would be unreasonable to allow the inspection or copying. The inspection or copying must be allowed free of charge.

Section 463D Return of seized thing

This new section provides for the return of a seized thing, which is not the subject of a forfeiture order under part 2A. As soon as the administering executive stops being satisfied there are reasonable grounds for retaining the thing, the administering executive must return the thing to its owner.

If the thing is not returned to its owner within three months after it was seized, the owner may apply to the administering executive for its return. Within 30 days after receiving the application, the administering executive must return the thing to the owner unless they are satisfied there are reasonable grounds for retaining the thing and decides to retain the thing. The administering executive must give the owner an information notice about the decision, including the grounds for retaining the thing.

Reasonable grounds for retaining a seized thing are if the thing is being or likely to be examined, if it is not lawful for the owner to possess the thing or if the administering executive believes it is necessary to continue to keep the thing to prevent its use in committing an offence. It is also a reasonable ground for retaining a seized thing if the thing is needed or may be needed for a proceeding for an offence against the Act that is likely to be started or that has been started but not completed, or an appeal from a decision in a proceeding for an offence against the Act. The reasonable grounds do not limit the grounds that may be reasonable grounds for retaining the seized thing.

Nothing in the new section 463D affects a lien or other security over a seized thing. For section 463D, 'examine' includes analyse, test, account for, measure, weigh, grade, gauge and identify.

Part 2A Forfeiture orders

Section 463E Forfeiture order

This new section provides for the court to make forfeiture orders if a person is convicted of an offence against the Act. The court may make a forfeiture order either on its own initiative or at the request of the prosecution, for the forfeiture of a thing owned by the person to the relevant entity for the thing, if the thing was the subject of, or used to commit the offence.

The court may make a forfeiture order for a thing regardless of whether it has been seized under chapter 9. If the thing has been seized, the court may make an order regardless of whether the thing has been returned to the person who owned the thing immediately before the seizure. In deciding whether to make a forfeiture order for a thing, the court may require notice to be given to any person the court considers appropriate, including for example, a person who may have any property in the thing.

The court must hear any submissions that a person claiming to have any property in the thing may wish to make, and must have regard to:

- any hardship that may reasonably be expected to be caused to the person by the order; and
- the use that is ordinarily made, or was intended to be made, of the thing; and
- the seriousness of the offence.

If the court makes a forfeiture order for a thing, the thing becomes the property of the relevant entity and may be destroyed or disposed of as directed by the administering executive. The court may make any order it considers appropriate to enforce the forfeiture order.

The new section 463E does not limit the court's powers under another law. For section 463E, relevant entity for a thing means the State or, if an authorised person seized the thing in the exercise of the power of seizure in the enforcement of a matter devolved to a local government, the local government.

The purpose of this provision is to incentivise compliance with the Act by preventing offenders from using certain items to commit crimes and to ensure that items connected to offences are removed from their possession.

Clause 39 Amendment of s 467 (Authorised person may take or direct someone to take stated action)

This clause amends section 467 of the EP Act to replace the subsection (5)(c) words, 'apply to the thing as if the thing were the evidence', with 'to 463D apply to the thing as if the thing were the evidence or thing'. The amendment supplements the changes concerning seized things in the new sections 462 to 463D.

Clause 40 Amendment of s 497 (Limitation on time for starting summary proceedings)

This clause amends section 497 of the EP Act to change the limitation on time for starting summary proceedings from one year to two years after:

- the commission of the offence; or
- the enforceable undertaking made in relation to the offence is contravened or the administering authority has agreed under section 509 to withdraw the enforceable undertaking.

The requirements to determine the timing of when an offence comes to the complainant's knowledge and when contravention of an enforceable undertaking made in relation to the offence comes to the complainant's awareness are omitted.

Section 497 is also amended to include relevant summary proceedings, with time limits for starting those proceedings set out as follows:

- within three years after the commission of the offence; or

- within two years after the enforceable undertaking related to the offence is either contravened or withdrawn with the agreement of the administering authority under section 509.

Relevant summary proceedings mean proceedings by way of summary proceeding under the *Justices Act 1886* for indictable offences against the Act and for offences against the following more serious and complex summary offences in the Act:

- section 319(2) offence to contravene the general environmental duty in relation to an activity which causes or is likely to cause serious or material environmental harm;
- section 319C(3) offence to contravene the duty to restore the environment in relation to harm that is serious or material environmental harm;
- section 357I offence of failing to comply with the conditions of a temporary emissions licence;
- section 369A(1) and (2) offences for wilfully or otherwise contravening an environmental enforcement order without reasonable excuse;
- section 426(1) offence to carry out an ERA without an environmental authority for the activity;
- section 430(3) offence to contravene a condition of an environmental authority;
- section 431(2) offence of the environmental authority holder for failing to ensure that another person acting under the authority does not contravene a condition of the environmental authority;
- section 437(2) offence to unlawfully cause serious environmental harm;
- section 438(2) offence to unlawfully cause material environmental harm;
- section 440(1) or (2) offences of wilfully or otherwise unlawfully causing environmental nuisance; and
- section 443A offence to cause or allow a contaminant to be placed in a position where it could cause environmental nuisance.

The amendments to section 497 of the EP Act are for the purpose of providing sufficient time to properly investigate and gather necessary evidence of an offence and effectively bring court proceedings for compliance with the EP Act. The ability to properly prosecute offences is an essential element of compliance, which is necessary to reduce the risk of significant harm to the environment and public health and safety. The amendments increase efficiency in the compliance process by removing the ambiguity in identifying the time when an offence comes to the 'complainant's knowledge', while providing sufficient time to prosecute offences which are not immediately apparent because of the nature of the environment (such as the contamination of underground water) and offences which require complex investigation (such as those requiring extensive testing samples and scientific data and specialised and technical expert opinions).

Clause 41 Amendment of s 520 (Dissatisfied person)

This clause amends section 520 of the EP Act to include further dissatisfied persons for original decisions and review decisions. Three additional classifications of dissatisfied persons have been included in the section:

- the holder of the PRCP schedule, if the decision is to give a PRCP schedule audit notice under section 285 and section 285(2)(b) applies in relation to the giving of the notice;
- the owner or person in control of the seized thing before it was seized, if the decision is about seizing a thing under section 461 unless a circumstance mentioned in section 463B(1)(a) or (b) applies; and
- the owner of the seized thing, if the decision is about retaining the seized thing under section 463D(4)(a).

This amendment aligns with fundamental legislative principles by ensuring that administrative decisions involving significant obligations are subject to appropriate review, thereby upholding the principle of natural justice.

Clause 42 Amendment of s 540 (Registers to be kept by administering authority)

This clause omits section 540(1)(a)(xiii) of the EP Act consistent with the removal of the public interest evaluation.

Clause 43 Amendment of s 540A (Registers to be kept by chief executive)

This clause amends section 540A of the EP Act by omitting the requirements for the chief executive to keep a register of submitted draft terms of reference for environmental impact statements, written summaries of comments given to the chief executive about draft terms of reference for environmental impact statements, and proponents' responses to the comments given to the chief executive about the draft terms of reference for environmental impact statements. The amendments are part of the streamlining measure to remove the requirement to publish the draft terms of reference for an environmental impact statement.

Clause 44 Amendment of s 755 (Administering authority must assess proposed PRC plan)

This clause amends section 755 of the EP Act to insert new subsection (7) to clarify the scope of the administering authority's assessment under section 126C(1)(i) in relation to an applicant's proposed methodology for achieving best practice management of an area. It provides that, without limiting the generality of subsection (6), the administering authority may consider:

- the historical context of operations on the land;
- any historical constraints arising from existing infrastructure and approvals; and
- the practicability of applying current best practice standards to the land.

This amendment ensures that the assessment of transitioning an environmental authority into the PRCP framework is informed by the operational realities and legacy conditions of the site. It supports a balanced and context-specific approach to evaluating best practice management proposals.

Importantly, this amendment is not intended to diminish the expectations associated with best practice standards. Rather, it allows the administering authority to take into account the unique circumstances of each site, recognising that historical context may influence the feasibility and implementation of best practice outcomes.

Clause 45 Omission of s 755A (Application of requirement for public interest evaluation for application stage)

This clause removes section 755A as a consequential amendment resulting from the removal of the public interest evaluation process for PRCPs.

Clause 46 Amendment of s 765A (Application of part if holder of environmental authority changes)

This clause amends section 765A of the EP Act to include a legislative note directing readers to section 848, which contains additional transitional provisions. This amendment is designed to ensure that section 765A is read in conjunction with the newly inserted transitional section, thereby improving clarity and coherence in the application of the transitional framework.

Clause 47 Amendment of s 802 (Particular holders may apply for PRC plan approval for pt 27)

This clause amends section 802 of the EP Act to clarify the transitional arrangements for certain holders of an environmental authority and the offence provision in section 431A, as amended. The amendment provides additional procedural direction by specifying the circumstances in which the offence under section 431A for not holding an approved PRCP schedule, does not apply, while steps to come into compliance with the requirements can be taken.

Immediately upon commencement of this provision, a holder of an environmental authority without a necessary PRCP schedule is provided a 60 business day period to reapply for one before the offence provision under section 431A would apply. In addition, if a PRCP is in the process of being assessed at the time of commencement of this provision, section 431A will not apply during the period of assessment. Section 431A will also not apply for a period of 60 business days after an assessment process for a PRCP has ended.

These transitional safeguards support regulatory fairness and allow sufficient time for taking steps to come into compliance with requirements to hold an approved PRCP schedule as per section 431A.

Clause 48 Insertion of new ch 13, pt 35

This clause inserts new chapter 13, part 35 into the EP Act, providing for relevant transitional provisions associated with the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025*.

Part 35 Transitional provisions for Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025

Division 1 Preliminary

Section 826 Definitions for part

This new section of the EP Act provides definitions for the terms 'amendment Act', 'former', 'new', 'transitional provision' and 'unamended Act' which are used in this part. The definitions clarify the transitional provisions for amendments commencing on assent. The term 'former' is defined to mean the provision as in force from time to time before the commencement of the transitional provision in which the term is used. The term 'new' is defined to mean the provision as in force from the commencement of the transitional provision in which the term is used.

Division 2 Transitional provisions for amendments commencing on assent

Subdivision 1 Public interest evaluations

Section 827 Definition for subdivision

This new section provides a definition for the term 'public interest evaluation' for this subsection, which links to former section 112.

Section 828 Ending of relevant matters in relation to existing public interest evaluations

This new section of the EP Act provides transitional arrangements designed to rescind any ongoing processes relating to public interest evaluations that were initiated under the previous legislative provisions. Its purpose is to ensure a clear legislative shift by discontinuing these matters and applying the new legal framework as though the earlier processes had never taken place. This supports a consistent regulatory expectation across the industry, ensuring all stakeholders operate under the same contemporary standard.

Further to this, new subsection (4) provides that subsection (3) does not apply in relation to the terms of reference stage for an environmental impact statement. This is intended to address an inconsistency with the separate transitional provision that continues former chapter 3, part 1, division 2 (among other provisions) for draft terms of reference submitted before commencement. It ensures that the continuation of the former terms of reference process for environmental impact statements is not overridden.

New subsection (5) states that, to the extent this section is inconsistent with sections 755, 778 or 802 of the EP Act, this section prevails. This new provision clarifies that the public interest evaluation transitional provision overrides any relevant section that requires consideration of public interest evaluation, making it clear that the public

interest evaluation provisions in chapter 5, parts 2–5 do not apply in the context of sections 755, 778 or 802.

New subsection (6) provides that this section applies subject to sections 829 to 836. This ensures that the general transitional provision for the public interest evaluation process is subject to the more specific transitional provisions in those sections within the same subdivision.

Finally, new paragraph (7)(h) in the definition of "relevant matter" adds "the making of a decision based on a report about the evaluation". This addition is intended to cover situations previously addressed by specific transitional provisions regarding the application of new sections 176A and 205, ensuring that decisions based on evaluation reports are captured as relevant matters.

Section 829 Modified application of new s 56—giving proponent a copy of submissions

This new section of the EP Act provides transitional provisions that modifies new section 56(1) for specific circumstances relating to environmental impact statements and a public interest evaluation. It applies when, prior to the commencement, the chief executive had requested a public interest evaluation report but had not yet received it, the submission period had ended, and the proponent had not been provided with accepted submissions. It ensures that the chief executive provides the proponents a copy of any submissions within 10 business days.

Ensuring the chief executive continues to provide the stakeholder a copy of each accepted submission reinforces transparency and accountability of the process that has been undertaken. It guarantees that proponents are equipped with the necessary information to understand various concerns raised about the application.

Section 830 Modified applications of new s 56—period for proponent's response to submissions

This new section of the EP Act provides transitional provisions that modifies new section 56(2) for specific circumstances relating to environmental impact statements and a public interest evaluation. It applies where, prior to the commencement, an entity had requested a review of a public interest evaluation report under former section 316PC, but the proponent had not yet completed the actions required under section 56(2). This provides the administering authority with 20 business days to provide the proponent with copies of the submissions.

By maintaining the requirement for proponents to complete their obligations under the new section 56(2), this provision supports procedural integrity and ensures that all projects are assessed under the same expectations, regardless of their position in the transition. It reinforces a consistent regulatory approach across the industry and helps uphold transparency and accountability in the environmental impact statement process.

Section 831 Modified applications of s 56A—period for chief executive's consideration of EIS etc.

This new section of the EP Act provides transitional provisions that modifies new section 56(2) for specific circumstances relating to environmental impact statements and a public interest evaluation. It applies where, prior to the commencement, an entity had requested a review of a public interest evaluation report under former section 316PC, but the chief executive had not yet completed the requirements under section 56A(2). To ensure continuity and fairness, this provision modifies the timing providing the chief executive with 20 business days.

Section 832 Starting of decision stage for particular site-specific applications

This new section of the EP Act provides modified timing of the decision stage for a site-specific application where a public interest evaluation was requested but not completed before commencement allows the decision stage to begin on commencement without the proponent providing the report.

Section 833 Restarting of assessment process suspended under former s 167B(3)

This new section of the EP Act modifies the suspension of the assessment process for a site-specific application through former section 167B(3). This provision provides multiples ways in which the application process restarts to maintain momentum in the environmental assessment but also allowing proponents flexibility to align their applications.

Section 834 Restarting of assessment process suspended under former s 167B(6)

This new section of the EP Act modifies the suspension of the assessment process for a site-specific application where the assessment process had not restarted under former section 167B(6). This provision provides for circumstances in which the assessment process restarts.

Section 835 No debt payable by third party entity under former s 316PD

This new section of the EP Act confirms that any outstanding debt incurred under former section 316PD will not need to be paid by the responsible entity following the commencement of the new legislative provisions. As the report will not be used in the decision-making process, it is unreasonable to require the third party to pay the debt; instead, the State will cover the cost.

Section 836 Continuation of confidentiality of public interest evaluation

This new section of the EP Act provides transitional arrangements that preserve confidentiality obligations relating to public interest evaluations conducted under the former legislative framework. This provision applies to individuals who were subject to confidentiality requirements under former section 316PE. It ensures that subsections (2) to (4) of that section continue to apply after commencement.

To remove any doubt, subsection (3) confirms that proceedings for an offence under former section 316PE(2) may be initiated or continued after commencement. This maintains the integrity of confidentiality protections and ensures that individuals remain accountable for any breaches of those obligations, even after the legislative framework has changed.

This transitional provision supports continuity and legal certainty, particularly in relation to sensitive information obtained through public interest evaluations conducted prior to commencement.

Subdivision 2 Other matters

Section 837 Draft terms of reference submitted before commencement

This new section of the EP Act applies if, before commencement, a proponent submitted a draft terms of reference for an environmental impact statement to the chief executive and the chief executive had not published the final terms of reference for the environmental impact statement.

The following provisions continue to apply in relation to the environmental impact statement as if the amendment Act had not been enacted:

- former chapter 3, part 1, division 2;
- former sections 65, 67 and 68;
- former schedule 2, part 1, division 1 to the extent it applied to an original decision under former section 41A(1)(b), 43(3)(c) or 68(3)(b); and
- the *Environmental Protection Regulation 2019*, former chapter 2, part 3.

The intent of this transitional provision is to ensure that projects which are part way through the process can continue to be assessed under the requirements of the Act prior to its amendment.

Section 838 Information stage does not apply to application made before commencement if IAR evaluated

This new section of the EP Act is inserted into the EP Act to address the circumstance that an application for an environmental authority is made prior to commencement but has not yet progressed to the information stage.

The section has the effect that for an application made prior to commencement where the impact assessment report has been evaluated and the Coordinator-General has stated conditions for each of the relevant activities subject of the application, the information stage will not apply, provided section 139(1)(b) can be satisfied.

This provision supports consistent application and avoids unnecessary duplication for applications that have already progressed through the impact assessment report process prior to commencement.

Section 839 Notification stage does not apply to application made before commencement if draft IAR publicly notified

This new section of the EP Act is inserted into the EP Act to address the circumstance that an application for an environmental authority is made prior to commencement but has not yet progressed to the notification stage.

The section has the effect that for an application made prior to commencement where the impact assessment report for the relevant activities has been publicly notified under the *State Development and Public Works Organisation Act 1971*, the notification stage under the EP Act will not apply, provided that section 150(1)(b) can be satisfied. This ensures that the notification stage does not apply to applications that have already undergone public notification through the impact assessment report process, supporting consistent application of the streamlined framework and avoiding unnecessary duplication.

Section 840 Continuation of former s 238 for particular changes to amendment applications made before commencement

This new section of the EP Act applies if, before commencement, an applicant gave the administering authority written notice of a change to an amendment application, and the change was not a minor change and the administering authority had not given its written agreement to the change. Former section 238 continues to apply in relation to the change to the amendment application as if the amendment Act had not been enacted.

Section 841 Application of new ch 5, pt 10, div 6 for residual risks requirement given after commencement

This new section of the EP Act states that new chapter 5, part 10, division 6 applies in relation to a residual risk requirement given after the commencement, regardless of whether the surrender application was made before or after commencement. This section clarifies that sections 271 to 273 of the EP Act apply to these requirements, allowing for a clear residual risk requirement period, and for extension of that period if necessary.

Section 842 Application of new s 273A to existing residual risks requirement

This new section of the EP Act applies if, before the commencement date, the administering authority had given an applicant a residual risks requirement, but the reasonable period set for complying with that requirement under section 271(2) of the pre-amended Act had not yet ended. In this instance, new section 273A applies, which allows for the extension of the residual risks requirement payment period if necessary.

Section 843 Application of new s 276 in relation to existing residual risks requirement

This new section of the EP Act applies where, before the commencement date, the administering authority issued a residual risks requirement, and after commencement the applicant fails to comply with either:

- the reasonable period stated under former section 271(2); or
- if this period had been extended under new section 273A as applied by section 842, within the extended period.

In this instance, a decision to approve the surrender applicant lapses and the applicant must submit a new surrender application for the activity.

Section 844 Continuation of audits of PRCP schedules started before commencement

This new section of the EP Act provides transitional arrangements for audits of PRCP schedules that were underway prior to commencement. This provision applies where an audit period, as defined under former section 285, had ended before commencement, but the holder had not yet submitted the required audit report to the administering authority.

It ensures that former section 285 continues to apply to these circumstances as if the amendment Act had not been enacted. This allows the administering authority to continue enforcing compliance with audit reporting obligations that arose under the previous legislative framework.

Section 845 Continuation of former ss 462 and 463 in relation to things seized before commencement

This new section of the EP Act applies to a thing seized by an authorised person under former chapter 9 before the commencement date. For these seized items, former sections 462 and 463 continue to apply as if the amendment Act had not been enacted. This provision has been inserted to ensure legal certainty and continuity, clarifying that the amendments to the Act have no retrospective effect on actions taken or rights relating to things seized before commencement.

Section 846 Limitation period for particular summary proceedings

This new section of the EP Act applies to a proceeding, by way of summary proceeding under the *Justices Act 1886*, for an offence against the Act that was committed before the commencement. For these offences, former section 497 continues to apply in relation to starting the proceeding as if the amendment Act had not been enacted. This provision has been inserted to ensure legal certainty and continuity, making clear that the amendments have no retrospective effect on the limitation period for starting proceedings for offences committed before commencement.

Section 847 Register of particular TOR documents to be kept by chief executive

This new section of the EP Act applies in relation to an environmental impact statement submitted before the commencement and requires the chief executive to continue to keep registers of the submitted draft terms of reference, the written summaries of comments given to the chief executive about the draft terms of reference, and the proponents' responses to those comments.

This section clarifies that a reference in the Act to a register kept under section 540A is taken to include a reference to the register kept under this new section.

Section 848 Transfers of environmental authorities to which pt 27 applies

This new section of the EP Act to address the issues arising when an environmental authority is transferred between companies without an approved PRCP schedule in place. Under this provision, the administering authority may, within 60 business days of an environmental authority transfer, issue a notice to the new environmental authority holder, granting a specified timeframe to submit a PRCP for assessment in accordance with section 802 of the EP Act. This provides the new holder with a new timeframe to prepare and submit a PRCP application, reducing the risk of immediate non-compliance and potential offence under section 431A.

This provision confirms that, once the administering authority proceeds with issuing a restart notice, the notice given under section 754(1) ceases to have effect and no longer applies to the new environmental authority holder. It also makes clear that any assessment processes are withdrawn following the issuing of a restart notice. Where an environmental authority holder is subject to this process, they are not in breach of section 431A.

This change is intended to support smoother transitions during asset transfers and reduce regulatory risk for purchasers, who may otherwise be reluctant to accept responsibility for obligations they cannot realistically meet within the original timeframe.

Section 849 Application of new s 802

This new section of the EP Act clarifies the application of the new requirements under section 802. It ensures that the ability to apply for a PRCP under part 27 is not limited by the circumstance surrounding the non-approval of a PRCP schedule. With the complexities of the PRCP for historical sites, the intent is to provide certainty for holders of environmental authorities by allowing them to seek approval for a PRCP despite the reasoning for the non-approval of the PRCP schedule. This supports rehabilitation obligations and maintains environmental standards without penalising entities for procedural or timing issues.

Division 4 Transitional regulation

Section 861 Transitional regulation-making power

This new section of the EP Act provides the power to make transitional regulations to support the legislative and operational shift following the commencement of the amendment Act. The section allows for a regulation to be made where it is necessary to address gaps when the Act itself does not sufficiently provide for transitional matters. A transitional regulation can only operate retrospectively up until the day the relevant amendment commences. A regulation made under this section must declare that it is transitional, be made within two years of the relevant amendment commencing and have an expiry date of two years. Permitting time-limited, targeted regulations is important to best support industry during the transition and ensure seamless implementation of the Act.

Clause 49 Amendment of sch 2 (Original decisions)

This clause amends the schedule 2, part 1 of the EP Act list of original decisions for Land Court appeals to:

- omit the decision about giving a TOR notice under section 43(3)(c);
- omit the reference to ‘public notification’ from the decision to refuse to allow draft terms of reference to proceed under section 41A(1)(b);
- omit the reference to the ‘comment’ from the decision of fixing of a new submission period under section 68(3)(b);
- include decisions to give PRCP schedule audit notice if section 285(2)(b) applies in relation to the giving of the notice; and
- include decisions to give general rehabilitation direction under section 316S.

This clause also corrects drafting errors by relocating the references to sections 318YN(1)(b), 318YN(1)(c), 318YU(2) and 318ZJA from division 3, which is for decisions under chapter 5, to division 4, which is for decisions under chapter 5A.

This clause also amends the schedule 2, part 2 list of original decisions for appeals for decisions under chapter 9 to insert the decision to seize a thing under section 461 unless a circumstance mentioned in section 463B(1)(a) or (b) applies, and to insert the decision to retain a seized thing

under section 463D(4)(a). The amendments made to this section are part of the streamlining measure to remove the requirement to publish the draft terms of reference for an environmental impact statement.

The amendments provide a pathway for these decisions to be appealed, consistent with the Fundamental Legislative Principles. It ensures that administrative decisions involving significant obligations are subject to appropriate review and appeal rights, thereby upholding the principle of natural justice

Clause 50 Amendment of sch 4 (Dictionary)

This clause amends schedule 4 of the EP Act to omit the definitions of 'comment period', 'public interest consideration', 'public interest evaluation', 'rehabilitation direction' and 'TOR notice'. This clause also inserts definitions for 'general rehabilitation direction' and 'surrender rehabilitation direction' and amends the definition of 'audit period', 'audit report' and 'regulatory requirement'. The definition of 'regulatory requirement' is amended to omit reference to public notification.

The amendments update and streamline key definitions in line with broader legislative reforms introduced under the amendment Act.

Division 3 Amendments commencing by proclamation

Clause 51 Amendment of s 4 (How object of Act is to be achieved)

Section 4 of the EP Act provides that the object of the Act is to be achieved by an integrated management program that is consistent with ecologically sustainable development. The program is cyclical and involves the following phases:

- phase 1- establishing the state of the environment and defining environmental objectives;
- phase 2 - developing effective environmental strategies;
- phase 3 - implementing environmental strategies and integrating them into efficient resource management; and
- phase 4 - ensuring accountability of environmental strategies.

Subsection (4) provides that phase 1 is achieved by researching the state of the environment (including essential ecological processes) and deciding environmental values to be protected or achieved by consulting industry, government departments and the community.

This clause amends subsection (4) to provide that phase 1 includes deciding environmental values that are to be protected as a priority and declared to be significant environmental values.

Clause 52 Amendment of s 6A (Principles of environmental protection)

This section provides that the Act is to be administered having regard to certain principles of environmental protection, such as the precautionary principle and the principle of primacy of prevention.

This clause amends this section to reflect the declaration of particular significant environmental values under the Act. Specifically, it adds a new subsection to require the Act to be administered having regard to the State interest of protecting significant environmental values as a priority. The policy intent is to provide clarity to stakeholders, applicants and those administering the legislation on the aspects of the environment that are priorities for the State government to protect in administration and implementation of the legislation.

Clause 53 Insertion of new s 9A

Section 9A Significant environmental values

This clause inserts new section 9A into the EP Act. The EP Act includes a definition of environment which is necessarily broad, however it does not provide direction on the aspects of the environment that are priorities for the Queensland Government.

New section 9A provides that each of the following is a significant environmental value under the EP Act:

- an environmental value declared to be a significant environmental value under an environmental protection policy; and
- an environmental value declared to be a significant environmental value under a regulation.

An environmental value may be declared to be a significant environmental value only if the Minister is satisfied the value is of State significance and should be protected under the Act as a priority. Environmental values may be declared to be significant environmental values by reference to environmental values in a particular area. For example, all environmental values in a protected area (e.g., national park) under the NC Act may be declared to be significant environmental values.

The intent of this new section is to provide clarity to stakeholders, applicants and those administering the legislation on the aspects of the environment that are a priority for the State government to protect in implementation of the legislation.

Clause 54 Replacement of ch 1, pt 3, div 2, sdiv 4 (Environmentally relevant activities)

This clause replaces existing section 18 and 19A of the EP Act to support a consistent, risk-based approach to prescribing an activity as an ERA. It also introduces new section 20, which allows for a regulation to declare an ERA mentioned in section 18 to be a code-managed ERA. Code-managed ERAs are activities that are deemed appropriate for management via an ERA code.

Subdivision 4 Environmentally relevant activities

Section 18 Meaning of *environmentally relevant activity*

This new section of the EP Act provides that the majority of ERAs are to be prescribed by regulation. Section 18 defines the term 'environmentally relevant activity' to include:

- a general ERA (prescribed activities that are not a resource activity, for example sewage treatment and chemical manufacturing); or
- a resource ERA (geothermal activities, greenhouse gas storage activities, mining activities, and petroleum activities).

An agricultural ERA (which may not always require an environmental authority and relate to Great Barrier Reef protection measures) will continue to be defined as an ERA under section 79 of the EP Act.

General ERAs are listed in schedule 2 of the *Environmental Protection Regulation 2019* and were previously referred to as prescribed ERAs. They may include activities which are carried out as part of a resource activity (e.g. chemical storage).

Note that an activity may be considered both a general ERA and an agricultural ERA in certain circumstances (e.g. sugarcane cultivation in the Great Barrier Reef catchment must comply with the relevant agricultural ERA standard and obtain an environmental authority if they plan to undertake commercial cropping and horticulture on five hectares or more of land that does not have a cropping history). Section 81 of the EP Act has been amended to address any conflicts that may arise between an agricultural ERA standard and an ERA standard for a general ERA.

Several consequential amendments will be made to the EP Act to update the terminology used to describe ERAs as a result of this amendment (e.g. the term 'prescribed ERA' will be updated to 'general ERA').

Section 19 Activity may be prescribed as environmentally relevant activity

This new section of the EP Act establishes a revised framework for prescribing activities as ERAs under the EP Act. Under the pre-amended Act, ERAs were defined in two ways:

- by broad category reference within the EP Act itself (e.g. 'resource activity'); or
- by prescribing specific activities by regulation (e.g. food processing), where the activity was likely to release a harmful contaminant or adversely affected a value of the marine environment.

New section 19 replaces this dual approach for the majority of ERAs by requiring all resource ERAs and general ERAs to be prescribed by regulation. This approach

promotes consistency and provides for a more targeted approach, ensuring that regulatory oversight is grounded in an assessment of environmental risk. In prescribing an activity as either a resource ERA or a general ERA, the Minister must be satisfied that one or more of the following criteria are met:

- the activity will, or may, release a contaminant into the environment, and the release will, or may, cause environmental harm;
- the activity will, or may, otherwise adversely affect a significant environmental value; and/or
- the activity will, or may, otherwise adversely affect an environmental value of the marine environment.

As was the case under the pre-amended Act, an activity carried out partly within the state of Queensland and partly within Commonwealth waters within the Great Barrier Reef Marine Park may be prescribed to be an ERA if it meets any of the abovementioned criteria for an ERA. This provision is intended to give the Act limited extra-territorial effect. Section 19 of the EP Act also makes it clear that an activity defined as an agricultural ERA in section 79 of the EP Act may also be prescribed as a general ERA.

Section 19A Transitional arrangements for former or new environmentally relevant activities

This new section of the EP Act establishes transitional arrangements for situations where the *Environmental Protection Regulation 2019* changes the status of an activity as an ERA. This section includes provisions that apply to an activity that ceases to be regulated as an ERA or where a new activity becomes an ERA. The section allows a regulation made under section 19 of the EP Act to set out how the Act will operate during this transition, providing a level of administrative consistency when the regulatory status of an activity changes.

Under this section, a regulation may, for example, provide that if an activity stops being an ERA, any pending application for an environmental authority is taken to have been withdrawn or any existing authority is taken to have been surrendered on commencement. It also makes it clear that certain fees relating to the withdrawn application, or surrender of an EA, may be refunded. This subsection aims to alleviate the potential fundamental legislative principal concern regarding the ability for a regulation to override the Act provisions in a way that may be detrimental to the applicant or environmental authority holder.

Conversely, if an activity becomes an ERA, the regulation may provide a grace period during which certain provisions of the Act—such as enforcement or offence provisions—do not apply to persons already conducting the activity. The inclusion of subsection (2)(b) replaces section 707 of the pre-amended Act and introduces greater flexibility to determine an appropriate transition period based on the nature of the newly regulated activity. Overall, section 19A promotes fair, efficient, and orderly transitions

that minimise disruption for affected operators and support effective implementation of this framework

Section 20 Declaration of environmentally relevant activity as a code-managed ERA

This new section of the EP Act allows for a regulation to declare an ERA to be a code-managed ERA. These activities still fall under the higher-level ERA type (e.g. resource ERA), but are deemed suitable for management via an ERA code because:

- the risk of environmental harm or other adverse effects on the environment in relation to carrying out the activity is known; and
- the environmental harm can be effectively prevented, minimised, rehabilitated or remediated by requiring compliance with an ERA code.

ERAs that are likely to have residual risks are not suitable to be code-managed ERAs as this indicates that the activity requires management via an environmental authority so that the residual risks can be assessed and considered as part of a surrender process. If an activity is deemed suitable for management via an ERA code, an environmental authority will not be required to carry out the activity. Instead, the operator must comply with the prescribed ERA code for the activity. A penalty exists for non-compliance with an ERA code (see section 435A of the EP Act) if a person is also carrying out the activity without an environmental authority.

This section also provides that a regulation *may* declare that a person carrying out the code-managed ERA under the relevant ERA code must be registered under chapter 6, part 1. The Minister may recommend the making of such a declaration only if the Minister is satisfied the carrying out of the activity needs to be monitored under the EP Act:

- having regard to the nature of the activity and the degree of risk of environmental harm that may be caused by the carrying out of the activity; and
- to ensure the effective administration of the Act.

In making this determination, the Minister may consider whether the administering authority is able to obtain details of the activity and the operator's contact information through means other than registration under the EP Act. For resource activities, this may include reference to an associated resource authority.

Section 20A General ERAs carried out in connection with resource ERAs

This new section of the EP Act replaces previous section 19A (interaction between prescribed ERAs and resource activities) and explains the interaction between resource ERAs and general ERAs. The purpose of this section is to remove any doubt that an activity listed in schedule 2 of the *Environmental Protection Regulation 2019* can be carried out and licensed as part of a resource ERA. New subsection (4) has been included to clarify that this section applies regardless of whether or not the ERAs are carried out as a resource ERA project.

Clause 55 Omission of ch 1, pt 3, div 2, sdiv 6 (Prescribed conditions)

This clause provides for the omission of chapter 1, part 3, division 2, subdivision 6 (Prescribed conditions) of the EP Act. This subdivision currently only contains section 21A, which provides the meaning of a 'prescribed condition'. Specifically, section 21A provides that a prescribed condition for a small scale mining activity is a condition prescribed under a regulation for the carrying out of the activity. It is also a prescribed condition for certain mining tenure holders to provide a surety in accordance with the terms of section 21A(2) before carrying out or allowing the carrying out of the activity.

Prescribed conditions under the pre-amended EP Act are only relevant to small scale mining activities. Small scale mining activities will be transitioned to code-managed ERAs under the amended Act, hence the prescribed condition provisions are no longer required and the subdivision is being removed.

Clause 56 Amendment of s 28 (Contents of policies)

This section provides that an environmental protection policy must—

- state that the policy applies to the environment generally or to an aspect or part of the environment specified in the policy; and
- identify the environmental values to be enhanced or protected under the policy.

Environmental protection policies under the pre-amended EP Act are very broad and wide-ranging and do not always provide sufficient clarity on the aspects of the relevant environmental values that are priorities for protection.

This clause amends section 28 to provide that an environmental protection policy must include each declaration of a significant environmental value made under section 9A(1)(a) in relation to the environment or aspect or part of the environment to which the policy applies. Stating the relevant matters that are 'significant environmental values' in the environmental protection policies will provide clarity to stakeholders, applicants and those administering the legislation about the aspects of the environment that are priorities for the State government to protect in the implementation of the legislation.

Clause 57 Amendment of s 79 (What is an *agricultural ERA*)

This clause inserts a clarifying note into section 79 of the EP Act to clarify that an activity may be considered both an agricultural ERA and a general ERA in certain circumstances. This links in with changes made to section 19 of the EP Act.

Clause 58 Amendment of s 81 (What is an *agricultural ERA standard*)

This clause amends section 81 of the EP Act to clarify how the Act applies in instances where a person is carrying out an activity that is considered both an agricultural ERA and a general ERA (e.g. an activity is required to comply with an agricultural ERA standard and an environmental authority). If an inconsistency arises between the two ERA frameworks, this amendment confirms that the agricultural ERA standard does not apply to the extent that it

conflicts with a condition of the environmental authority under which the person is operating for the activity.

Clause 59 Omission of ss 106–111

This clause omits the definitions for the below terms and moves them to schedule 4 (Dictionary) of the EP Act:

- prescribed ERA (to be relocated and renamed 'general ERA');
- resource activity;
- geothermal activity;
- GHG storage activity;
- mining activity; and
- petroleum activity.

Clause 60 Amendment of s 112 (Other key definitions for ch 5)

This clause amends section 112 of the EP Act to reflect the new name for prescribed ERAs (now 'general ERAs') and resource activities (now 'resource ERAs'). As a consequence, a prescribed ERA project is now termed a 'general ERA project' and a resource project is termed a 'resource ERA project'. The amendments also clarify that, where a single integrated operation includes both resource ERAs and general ERAs, it is treated as a resource ERA project. A note is included to refer the reader to section 20A to see how general ERAs are treated in these circumstances.

Clause 61 Amendment of s 115 (Development application taken to be application for environmental authority in particular circumstances)

This section outlines when a development application under the Planning Act is also considered an application for an environmental authority.

This clause amends section 115 to provide that this section does not apply in relation to a material change of use of premises for a general ERA that is a code-managed ERA if the applicant states in the development application that the applicant intends to carry out the code-managed ERA under the relevant ERA code.

Subsection (7) also provides that, where a general ERA is a code-managed ERA, the applicant has the option to give the administering authority written notice that they intend to carry out the activity under the relevant ERA code. This option is provided to cater for applications that have already been made. In these circumstances, the environmental authority application is taken to be withdrawn. If an application includes both the code-managed ERA and other general ERAs, the application is taken to be withdrawn only to the extent it relates to the code-managed ERA the subject of the notice.

If a regulation under section 20 requires registration for carrying out the ERA under an ERA code, the applicant must comply with chapter 6, part 1, which governs registration requirements.

Clause 62 Amendment of s 118 (Single application required for ERA projects)

This section applies if a person proposes to carry out ERAs as an ERA project. It provides that, in these circumstances, the person may only make a single application for an environmental authority for all relevant activities that form the project.

This clause amends section 118 to clarify that this requirement does not apply to an activity that is a code-managed ERA if the person:

- registers to undertake the activity under the ERA code under chapter 6, part 1 (if a regulation under section 20 requires registration for the activity); or
- otherwise, gives the administering authority written notice they intend to carry out the activity under the relevant ERA code.

Clause 63 Amendment of s 119 (Single environmental authority required for ERA projects)

Section 119 of the EP Act provides that if an environmental authority has already been issued for an ERA project, the holder cannot apply for a separate authority for additional activities proposed to be carried out as part of the same project.

This clause amends section 119 to clarify that where a code-managed ERA forms part of an ERA project, this restriction does not prevent the environmental authority holder from carrying out the code-managed ERA under the relevant ERA code.

The intent of the amendment is to clarify that, in these circumstances, the holder has the option of either carrying out the code-managed ERA under the relevant code or amending the existing authority to encompass the code-managed ERA.

Clause 64 Amendment of s 130 (Nomination of principal applicant)

This section enables joint applicants for one or more environmental authorities to nominate a principal applicant in their application. The principal applicant is authorised to:

- act on behalf of all joint applicants in giving the administering authority a notice or other document relating to the application or a proposed PRCP for the application;
- receive notices or documents from the administering authority intended for all applicants; and
- be the point of contact for any requirements made under the chapter relating to the application or a proposed PRCP.

This clause amends section 130 to provide that the principal applicant may give the administering authority a written notice mentioned in section 118(3)(b) or 119(5)(b) for all applicants for the application. This provision is included to simplify administrative processes by allowing a single nominated representative to provide written notice of the applicants' intention to carry out a code-managed ERA under the relevant ERA code.

The clause also amends section 130 to include a note to cross-reference sections 318ZN and 318ZW(4). These sections also relate to making requests or giving notices for carrying out a code-managed ERA where there are joint applicants or joint holders of an environmental authority.

Clause 65 Amendment of s 316C (Application of division)

This clause is a consequential amendment, which removes the reference to a prescribed condition for a small scale mining activity. This section relates to financial assurance, or scheme assurance, which will no longer apply to a small scale mining activity operating under an ERA code.

Clause 66 Amendment of s 318YE (Conditions of recognition)

This clause amends section 318YE of the EP Act to clarify the records required to be kept and reported to the chief executive and ensure the chief executive can impose conditions when the recognition of an accreditation program for an agricultural ERA is renewed. This includes:

- the time period that records about decisions to accredit persons must be kept for is a minimum of six years and, to assist with compliance assessments, these records must be provided to the chief executive upon request and include the date when the accreditation expires; and
- the register of persons who have been accredited must include the lot on plan of where the agricultural ERA is being undertaken, rather than the street address, to ensure the full extent of land the activity is undertaken on is reported.

While section 318YN allows the chief executive to decide to approve an application on conditions, section 318YE(4) only specifies that the chief executive can impose conditions when recognition is granted or amended, excluding when recognition is renewed. This clause corrects this omission by inserting a provision to explicitly allow the chief executive to impose conditions when approving the renewal of a recognised accreditation program.

The clause also amends section 318YE(2) to confirm that the conditions of recognition apply when an accreditation program is ‘approved’ rather than when accreditation is ‘granted’.

Clause 67 Amendment of s 318YI (Approval continues pending decision about renewal)

This clause amends section 318YI of the EP Act from ‘at least 60 days’ before the term of recognition ends to ‘at least 45 business days’. The change in reference from ‘days’ to ‘business days’ is to help standardise the reckoning of time periods in the EP Act. This timeframe is for when an application to renew an accreditation program must be provided to the chief executive so that the recognition of the program will continue when it would have otherwise expired, while a decision about the renewal is pending. The period has been reduced to 45 business days to keep the period comparable to 60 days to not disadvantage program owners.

Clause 68 Amendment of s 318YM (Inquiry about application)

This clause amends section 318YM of the EP Act from 'at least 30 days' for how long the chief executive may give an applicant to provide further information to decide the application to 'at least 30 business days'. This amendment helps to standardise the reckoning of time periods in the EP Act while ensuring applicants have sufficient time to provide the further information.

Clause 69 Replacement of s 318YN (Decision on application)

Section 318YN (Decision on application)

This clause replaces section 318YN of the EP Act to correct a drafting error that clarifies when an application is approved by the chief executive, it must include the conditions of recognition under section 318YE(2) and that the chief executive may also impose additional conditions under section 318YE(2)(g) if necessary for individual programs. There is no material change of substance to this section.

Clause 70 Amendment of s 318YO (Failure to decide application)

This clause amends section 318YO of the EP Act from 'within 30 days' to 'within 30 business days' for how long the chief executive has to decide an application after receiving it before it is taken to have been refused. This amendment helps to standardise the reckoning of time periods in the EP Act while ensuring there is sufficient time for the chief executive to undertake the necessary action.

Clause 71 Amendment of s 318YR (Show cause notice)

This clause amends section 318YR of the EP Act to change when the show cause period must end from 'at least 28 days' after the holder is given the show cause notice to 'at least 20 business days'. This period is consistent with the timeframes in the EP Act for other show cause notices. The period of 20 business days is comparable to the 28 days (i.e., four weeks).

Clause 72 Amendment of s 318YV (Immediate suspension of recognition of accreditation program)

This section enables the chief executive to immediately suspend the recognition of the accreditation program if there are grounds to do so and this action is necessary. The suspension continues to operate until the suspension is cancelled, or the show cause notice is dealt with, or for 45 days after the notice – whichever comes first. This clause amends section 318YV to change the period from '45 days' to '45 business days'. This amendment helps to standardise the reckoning of time periods in the EP Act while ensuring there is sufficient time for the program owner to undertake the necessary action.

Clause 73 Insertion of new ch 6

This clause inserts new chapter 6 into the EP Act and relates to carrying out a code-managed ERA under a relevant ERA code.

Chapter 6 Carrying out code-managed ERA under relevant ERA code

Part 1 Registration for particular code-managed ERAs

Section 318ZK Application of part

This new section of the EP Act provides that part 1 of chapter 6 applies to a code-managed ERA where an ERA code is in effect for the activity and a regulation made under section 20 requires a person carrying out the activity under the code to be registered.

Section 318ZL Requirement to be registered

This new section of the EP Act provides that a person must not carry out a code-managed ERA under the relevant code without being registered. A maximum penalty of 50 penalty units applies to a person who contravenes this section.

Note this section only applies to activities for which registration is required under chapter 6 part 1 (see section 318ZK). It does not apply in relation to a person carrying out a code-managed ERA under an environmental authority.

Section 318ZM Request for registration

This new section of the EP Act provides that a person can ask to be registered for a code-managed ERA by submitting the approved form and paying the fee (if any) prescribed by regulation. The administering authority must then register the person and provide written confirmation as soon as practicable.

A person can make a request for registration under this section even if the person has applied for or holds an environmental authority for the code-managed ERA, or has previously given written notice mentioned in section 318ZU(1)(b)(ii) or 318ZY(1)(b)(ii). The referenced sections allow a person to elect to continue carrying out a code-managed ERA under an environmental authority rather than transitioning to an ERA code in the first 12 months after a new code is made for the activity. It also allows a person to elect to register to operate under an ERA code for the activity despite previously holding an environmental authority or applying for an environmental authority for the activity.

318ZN Joint request for registration

This new section of the EP Act allows a person (the principal) to request registration for themselves and others in relation to a code-managed ERA if:

- the principal is the principal applicant for an application made for an environmental authority for the code-managed ERA and the application was made jointly with others; or
- the principal and the others all jointly hold an environmental authority for the code-managed ERA.

If such a joint request is made:

- the administering authority must register all the named persons (the principal and the others) and notify the principal of the registration in writing; and
- for the purposes of applying the EP Act—all persons involved are taken to have requested registration under section 318ZM, even if only the principal submitted the request.

Section 318ZO Notice of ceasing to carry out code-managed ERA

This new section of the EP Act provides that if a person registered for a code-managed ERA proposes to stop or stops carrying out the activity on a day (the end day), they must notify the administering authority in the approved form. This notice must be given either at least 30 days before the end day or, if the decision is made less than 30 days before stopping, as soon as practicable but no later than 10 business days after the end day. Failure to comply may result in a maximum penalty of 50 penalty units.

Section 318ZP Term of registration

This new section of the EP Act provides that a person's registration for a code-managed ERA under this part continues until:

- the end day stated in the notice given to the administering authority under section 318ZO, or the day the notice is given (whichever is later);
- the administering authority otherwise becomes aware the person has stopped the activity and provides written notice that their registration has ended; or
- the person is issued an environmental authority approving the code-managed ERA.

Part 2 Transitioning to relevant ERA code

Division 1 Preliminary

Section 318ZQ Purpose of part

This new section of the EP Act provides the purpose of this part is to provide for persons who have applied for, or hold, an environmental authority for a code-managed ERA to transition to carrying out the activity under a relevant ERA code.

Division 2 Code-managed ERAs for which registration required

Section 318ZR Application of division

This new section of the EP Act provides that this division applies in relation to a code-managed ERA to which part 1 applies.

Section 318ZS Withdrawal of application for environmental authority if applicant requests registration

This new section of the EP Act applies if a person has applied for an environmental authority for a code-managed ERA, and the application has not been decided. If the person then requests registration for the code-managed ERA under section 318ZM, the application for the environmental authority is taken to be withdrawn. In these circumstances, the administering authority must refund any fees paid for the withdrawn application unless the application also includes other ERAs. If the application also includes other ERAs, only the part relating to the code-managed ERA is withdrawn, and no refund is provided.

Section 318ZT Surrender of environmental authority if holder requests registration

This new section of the EP Act allows a person who holds an environmental authority that approves a code-managed ERA to request registration to operate under a relevant ERA code under section 318ZM. When the person is registered, the environmental authority stops applying in relation to the code-managed ERA. In these circumstances, the person is taken to have surrendered the environmental authority, or the part of the environmental authority applying to the code-managed ERA if the environmental authority also applies to one or more other ERAs.

If an environmental authority (or part of it) is surrendered, the administering authority must as soon as practicable update the relevant register, notify the person in writing, and refund to the person any amount that is required to be refunded under section 318ZZ.

Section 318ZU Surrender of environmental authority on holder's deemed registration

This new section of the EP Act applies if a person holds an environmental authority for a code-managed ERA when a relevant ERA code takes effect. If it is the first ERA code that has been made for the code-managed ERA, the person has 12 months to either request registration under section 318ZM or notify the administering authority of their intent to continue operating under the environmental authority. If they fail to do so, the person is automatically taken to be registered under part 1 and the environmental authority ceases to apply to the code-managed ERA.

The environmental authority (or relevant part of it) is taken to have been surrendered, and the administering authority must update the register, register the person for the code-managed ERA and notify them in writing. The administering authority must also refund to the person any amount that is required to be refunded under section 318ZZ, after deducting any prescribed registration fee. If the prescribed registration fee is higher than the amount required to be refunded for the environmental authority under section 318ZZ, the person must, within 20 business days after receiving a notice under subsection (4), pay the amount of the difference to the administering authority.

Certain exceptions to the deemed registration apply, such as if the authority relates to an ERA project or was issued for a site-specific or variation application, or if the code-managed ERA requires a development permit for a material change of use under the Planning Act.

Division 3 Other code-managed ERAs

Section 318ZV Application of division

This new section of the EP Act provides that this division applies in relation to a code-managed ERA if an ERA code is in effect for the activity and part 1 does not apply. That is, registration is not required.

Section 318ZW Withdrawal of application for environmental authority if applicant gives notice

This new section of the EP Act applies if a person has applied for an environmental authority for a code-managed ERA and the application has not been decided. In these circumstances, the person may notify the administering authority in writing of their intention to operate under the ERA code instead. If the application does not include other ERAs, the application for the environmental authority is taken to have been withdrawn and the administering authority must refund the application fee.

If the application includes other activities, only the part relating to the code-managed ERA is withdrawn, and the application fee will not be refunded.

If the application for the environmental authority was made jointly by two or more applicants, the principal applicant may give the notice on behalf of all applicants and the administering authority may refund the fee to the principal applicant.

Section 318ZX Surrender of environmental authority if holder gives notice

This new section of the EP Act provides that a person who holds an environmental authority for a code-managed ERA may notify the administering authority in writing of their intent to operate under the ERA code instead. Once the notice is received, the environmental authority ceases to apply to the code-managed ERA and it is taken to be

surrendered either in full or partially if it also covers other activities. The administering authority must as soon as practicable update the register, give the person written notice of the surrender and refund any amount that is required to be refunded under section 318ZZ.

Section 318ZY Surrender of environmental authority on holder's deemed decision

This new section of the EP Act applies if a person holds an environmental authority for a code-managed ERA when a relevant ERA code takes effect. If it is the first ERA code that has been made for the code-managed ERA, the person has 12 months to either notify the administering authority of their intent to either operate under the ERA code or continue under the environmental authority. If they fail to do so, the person is taken to have decided to operate under the ERA code.

On the day that is 12 months after the first ERA code takes effect, the person is taken to have given the administering authority a written notice stating they intend to carry out the code-managed ERA under the ERA code. On this day, the environmental authority ceases to apply to the code-managed ERA and is considered surrendered either fully or partially, if it covers other activities. Exceptions apply if the authority relates to an ERA project or was issued for a site-specific or variation application, or if the code-managed ERA requires a development permit for a material change of use under the Planning Act.

The administering authority must, as soon as practicable, update the register, give the person written notice of the surrender and refund any amount that is required to be refunded under section 318ZZ.

Division 4 Other provision

318ZZ Amount refundable on surrender

This new section of the EP Act sets out the circumstances under which a refund of the annual fee is payable when an environmental authority that approves a code-managed ERA is surrendered or partially surrendered.

The section applies where an environmental authority is either wholly or partially surrendered (or taken to be surrendered) under a provision of this part and an annual fee has already been paid for the 12-month period in which the surrender occurs. For partial surrenders, the provision only applies if the annual fee paid exceeds the amount that would have been payable had the environmental authority not included the code-managed ERA.

Where these conditions are met, the administering authority is required to refund the relevant portion of the annual fee to the person who surrendered (or is taken to have surrendered) the environmental authority.

The amount to be refunded is calculated on a pro-rata basis, reflecting the portion of the 12-month period remaining after the surrender. For a full surrender, the refund is based on the unused portion of the total annual fee. For a partial surrender, the refund is based on the difference between the original fee paid and the reduced fee that would have applied if the authority did not approve the code-managed ERA, again proportionate to the remaining period.

Clause 74 Amendment of s 319 (General environmental duty)

This clause amends section 319 of the EP Act as a consequence of introducing ERA codes and code-managed ERAs. This amendment replaces the reference to a code of practice in section 319 to a general environmental duty (GED) code.

Clause 75 Amendment of s 320A (Application of div 2)

This clause amends section 320A of the EP Act as a consequence of introducing ERA codes and code-managed ERAs. This amendment replaces the reference to a prescribed condition for carrying out a small scale mining activity (which no longer exists), with a reference that links to an ERA code for a code-managed ERA. Several similar consequential amendments have been made throughout the EP Act to address this change.

Clause 76 Amendment of s 330 (What is a transitional environmental program)

This clause amends section 330 of the EP Act as a consequence of introducing ERA codes and code-managed ERAs.

Clause 77 Amendment of s 331 (Requirements for applications generally)

This clause amends section 331 of the EP Act as a consequence of introducing ERA codes and code-managed ERAs.

Clause 78 Amendment of s 332 (Administering authority may require particular entities to apply for issue of program)

This clause amends section 332 of the EP Act as a consequence of introducing ERA codes and code-managed ERAs.

Clause 79 Amendment of s 346 (Effect of compliance with program)

This clause amends section 346 of the EP Act as a consequence of introducing ERA codes and code-managed ERAs.

Clause 80 Amendment of s 359 (Meaning of *enforcement ground*)

This clause amends section 359 of the EP Act as a consequence of introducing ERA codes and code-managed ERAs.

Clause 81 Amendment of s 426 (Environmental authority required for particular environmentally relevant activities)

This clause amends section 426 of the EP Act as a consequence of introducing ERA codes and code-managed ERAs. This section was also amended as a consequence of changes made to sections 79 and 81 of the EP Act, which clarifies the relationship between agricultural ERAs and general ERAs.

Clause 82 Replacement of ch 8, pt 2A (Offences relating to conditions)

This clause replaces chapter 8, part 2A of the EP Act. This part includes section 435A (Offence to contravene prescribed conditions for particular activities) which currently applies to small scale mining activities. As small scale mining activities are being transitioned to ERA codes under the amended Act, this offence is being replaced by a new offence for contravening an ERA code.

Part 2A Offences relating to code-managed ERAs

435A Offence to contravene relevant ERA code

This new section of the EP Act establishes that a person carrying out a code-managed ERA must not contravene the relevant ERA code. Wilfully contravening the ERA code carries a maximum penalty of 1,665 penalty units, while non-wilful contravention carries a maximum penalty of 600 penalty units. If a court finds insufficient evidence for a wilful contravention but is satisfied the person is guilty of a non-wilful contravention, it may convict the person of the lesser offence.

This section does not apply if the person holds or is acting under an environmental authority for the activity.

Clause 83 Amendment of s 452 (Entry of place—general)

This clause amends section 452 of the EP Act to remove the power for an authorised person to enter a place to which a prescribed condition for a small scale mining activity relates. This provision is no longer needed as small scale mining activities will be transitioned to ERA codes under the amended Act. The clause also inserts a new subsection to enable an authorised person to enter a place at which a code-managed ERA is carried out under the relevant ERA code.

Clause 84 Amendment of s 458 (Order to enter land to conduct investigation or conduct work)

This clause amends section 458 to include reference to an ERA code and remove reference to a prescribed condition for carrying out a small scale mining activity. As small scale mining activities will be transitioned to ERA codes under the amended Act, the prescribed condition provisions are no longer required. An authorised person can still apply to a magistrate for an order to enter land to carry out work to secure compliance with these ERA codes.

Clause 85 Amendment of s 493A (When environmental harm or related acts are unlawful)

This clause amends section 493A of the EP Act as a consequence of introducing ERA codes and code-managed ERAs.

Clause 86 Amendment of s 540 (Registers to be kept by administering authority)

This clause amends section 540 of the EP Act to include reference to persons registered under chapter 6, part 1 in relation to code-managed ERAs. The administering authority has an obligation to keep a register of those code-managed ERAs to which chapter 6, part 1 applies.

Clause 87 Amendment of s 540A (Registers to be kept by chief executive)

This clause amends section 540A of the EP Act to replace the reference to ‘codes of practice’ under chapter 5A with new references to GED codes and ERA codes for which the chief executive must keep a register. This amendment is a consequence of introducing ERA codes into the EP Act as a separate tool to GED codes and the renaming of ‘code of practice’ to ‘GED code’.

Clause 88 Insertion of new ch 12, pt 1A, div 1, hdg

This clause inserts new chapter 12, part 1A, division 1 heading.

Division 1 Making codes of practice for general environmental duty

Clause 89 Amendment of s 551 (Codes of practice)

This clause amends section 551 of the EP Act to allow the chief executive (rather than the Minister) to make a code of practice for the general environmental duty (a GED code), by regulation. The GED code takes effect on the day it is approved by regulation. Allowing the chief executive to make GED code will provide for consistency with equivalent provisions (e.g. ERA standards), which are made by the chief executive rather than the Minister. This clause also amends the section 551 heading to make it clear that this section relates solely to GED codes.

Clause 90 Insertion of new ch 12, pt 1A, divs 2 and 3

This clause inserts new chapter 12, part 1A, division 2 and 3, which outlines the procedural requirements for making a code of practice for a code-managed ERA.

Division 2 Making codes of practice for code-managed ERA

Section 551A Chief executive may make code of practice for code-managed ERA

This new section of the EP Act provides that the chief executive may make a code of practice for a code-managed ERA (ERA code) for certain activities. ERA codes enable certain ERAs to be conducted without requiring an environmental authority, provided they comply with the conditions of the ERA code.

Section 551(3) states that ERA codes could include conditions to prevent or minimise environmental harm, require rehabilitation or remediation of harm or mandate notification of environmental harm to the administering authority.

Section 551B Notice of proposed ERA code

This new section of the EP Act lists the requirements the chief executive must comply with before making an ERA code. Section 551B(1) states that the chief executive must publish a copy of the proposed ERA code on the department's website along with a notice that includes:

- an invitation for public submissions about the proposed ERA code;
- a consultation period of at least 30 business days;
- instructions on how to make a submission; and
- an alert that once the ERA code takes effect, in particular circumstances, the relevant activities may or must be conducted under the code rather than an environmental authority.

The chief executive must ensure that the proposed ERA code and the accompanying notice remain accessible on the department's website throughout the consultation period. The department has discretion to decide whether the new code must be applied to every person undertaking the relevant activity, including existing authority holders, or whether a person can choose to operate under the new ERA code or an environmental authority.

The chief executive is also required to provide written notice about the proposed ERA code to all relevant environmental authority holders that are in effect before the consultation period begins. The notice to existing environmental authority holders must include:

- a statement that the chief executive proposes to make an ERA code applicable to their approved activities;

- details on how chapter 6 of the EP Act will apply to the holder once the ERA code takes effect;
- details of the department's website address; and
- information about the consultation process.

This ensures that persons directly affected by the proposed ERA code are adequately informed and given the opportunity to participate in the consultation process.

Section 551C Consideration of submissions

This new section of the EP Act requires the chief executive to consider all submissions received on the ERA code in making their decision under section 551A.

Section 551D Approval of ERA code by regulation

New section 551D provides that an ERA code comes into effect either when it is approved by regulation or, if the regulation specifies a later date, on that later date. This clarifies when requirements under an ERA code become enforceable and is consistent with the making of other codes of practice under section 551.

Listing ERA codes in the *Environmental Protection Regulation 2019* addresses the potential challenges faced by operators in having to search the gazette for a ministerial decision about an ERA code. Rather, the *Environmental Protection Regulation 2019* will provide a consolidated list of ERA codes that have been made and are in effect.

Division 3 Other provisions about codes of practice

Section 551E Minor amendments

This new section of the EP Act allows the chief executive to make minor amendments to GED codes or ERA codes by publishing the amended code on the department's website. Minor amendments are defined exclusively in section 551E(3) as changing a title or department name, correcting spelling or grammatical errors, changing text without altering the operation of the code or making other minor adjustments which the chief executive deems not a change of substance. The amended GED code or ERA code takes effect when it is approved by a regulation. For any amendments beyond minor changes, a new GED code or ERA code must be created.

Section 551F Publication

New section 551F requires the chief executive to publish all GED codes and ERA codes currently in effect on the department's website, so that the public can clearly and easily access the most up to date version of a code.

Clause 91 Omission of s 707 (Deferment of application of s 426 to newly prescribed ERAs)

This clause omits section 707 from the EP Act. A similar provision has been included in section 19A of the Act instead to clarify how transitional arrangements will apply to new ERAs.

Clause 92 Amendment of s 710 (References to former terms)

This clause inserts a note directing the reader to new section 859 of the EP Act. This note is a consequential amendment and helps update references to terms used in the pre-amended Act if the context requires or permits the updated reference (e.g. prescribed ERA taken to be general ERA).

Clause 93 Insertion of new ch 13, pt 35, div 3

This clause inserts new chapter 13, part 35, div 3, which outlines the transitional provisions for amendments that will commence by proclamation, including for activities that will be transitioned to an ERA code.

Division 3 Transitional provisions for amendments commencing by proclamation

Subdivision 1 Small scale mining activities

Section 850 Definitions for subdivision

This new section of the EP Act provides definitions for the terms ‘corresponding ERA code condition’, ‘prescribed condition’, ‘surety’ and ‘transitional environmental program’ which are used in this subdivision.

Section 851 Unamended Act continues to apply for particular period

This new section of the EP Act applies to all existing small scale mining activities which, immediately before commencement, were operating under prescribed conditions stated in the *Environmental Protection Regulation 2019.* It does not apply to activities operating under an environmental authority.

The section provides that the version of the EP Act in force before commencement (the unamended Act) continues to apply to these activities for a transitional period of up to 12 months, meaning operators can continue to operate under the existing conditions during this time.

Specifically, subsection (2) provides the unamended Act continues to apply in relation to a person carrying out the small scale mining activity, as if the Act had not been amended by the amendment Act, until the first of the following happens—

- the activity is a code-managed ERA and the person is registered (if required under chapter 6, part 1) or notifies the administering authority in writing of their intention to operate under the new ERA code (if registration is not required)
- the small scale mining activity is approved by an environmental authority; or
- the period of 12 months following commencement ends.

For applying the unamended Act:
- each prescribed condition that applied to the small scale mining activity immediately before the commencement continues to be a prescribed condition for the activity; and
- the *Mineral and Energy Resources (Financial Provisioning) Act 2018*, as in force immediately before the commencement, continues to apply in relation to a surety for the small scale mining activity as if the amendment Act had not been enacted.

This provision allows existing small scale mining operators to continue operating under the current regulatory framework while they take the necessary steps to comply with the new requirements of the amendment Act. This section is not limited by any other provision in the subdivision.

Section 852 Offences against former s 435A

This new section of the EP Act provides transitional arrangements for offences committed under former section 435A of the EP Act. This provision ensures that offences committed under former section 435A, whether before or after the commencement of the amending Act, can still be prosecuted as if the amendments had not occurred. It allows proceedings to be commenced or continued, and for penalties to be imposed, despite the repeal or amendment of the original provision. This includes enforcement actions taken by way of infringement notices under the *State Penalties Enforcement Act 1999*, with the relevant regulation continuing to apply as it was before commencement. The provision operates notwithstanding section 11 of the *Criminal Code*, which generally prohibits retrospective criminal liability, and does not limit the operation of section 20 of the *Acts Interpretation Act 1954*, which preserves rights and liabilities accrued under repealed legislation.

Section 853 Exception, exemption or defence if acting under a prescribed condition

This new section of the EP Act applies to a person who:
- before commencement, carried out a small mining activity in compliance with a prescribed condition; or
- after commencement, carries out a small mining activity in compliance with a prescribed condition pursuant to new section 851.

This provision ensures that any exception, exemption or defence under the pre-amended Act continues to apply to those persons. This ensures continuity of legal protections for

compliant operators during the transition to the amended legislative framework and protects current small mining operators from unfair breach of a prescribed condition.

Section 854 Environmental enforcement order for compliance with a prescribed condition

This new section of the EP Act provides that certain environmental enforcement orders issued to secure compliance with prescribed conditions remain valid and enforceable despite the repeal of former sections 21A and 435A and the amendment of former chapter 7, part 5 by the amendment Act. This applies to:

- environmental enforcement orders issued and in effect immediately before the commencement;
- environmental enforcement orders issued after the commencement in relation to prescribed conditions continued in effect under section 851.

This ensures that enforcement actions under the previous legislative framework are not invalidated by the new amendments.

Section 855 Existing application for transitional environmental program

This new section of the EP Act provides that an application for a transitional environmental program for a small scale mining activity made before commencement is assessed and decided under the pre-amended Act. If the application is approved while the person is still operating under the pre-amended Act as permitted by section 851, the pre-amended Act continues to apply to the transitional environmental program during the transitional period. If the person transitions to the ERA code, the administering authority must amend the transitional environmental program so it applies to the corresponding ERA code condition.

If the person is already operating under an ERA code when the administering authority approves the application, the administering authority must amend the transitional environmental program so it applies to the corresponding ERA code condition.

If neither of these scenarios apply in relation to the person carrying out the small scale mining activity, the administering authority must review the terms of the transitional environmental program and make amendments it considers appropriate to allow the program to continue under the new Act.

Section 856 Existing transitional environmental program

This new section of the EP Act applies to existing transitional environmental programs for small scale mining activities that is in effect on commencement. This provision ensures that programs in effect on commencement continue despite amendments to section 330.

If an operator is still carrying out a small scale mining activity via section 851 under the pre-amended Act, the transitional environmental program remains valid and must

later be amended by the administering authority to apply to the corresponding ERA code condition if the person starts to carry out the activity under ERA code. If the operator is already carrying out activities under the ERA code, the administering authority must update the program in the same way. If neither of these scenarios apply, the administering authority must review the terms of the transitional environmental program and make amendments it considers appropriate to allow the program to continue under the new Act.

Section 857 Recovery of costs and expenses for compliance action

This new section of the EP Act provides for the recovery of costs and expenses incurred by the administering authority or the State in taking compliance action to secure compliance with a prescribed condition for a small scale mining activities where a surety has been provided. It applies to costs and expenses incurred before the commencement, or after the commencement because of the operation of section 851. To ensure continuity, the clause preserves the operation of the former chapter 5, part 14, division 3 of the Act, allowing it to continue to apply to these costs as if the amendment Act had not been enacted.

The section refers to section 110 which provides for the release of a surety given by the holder of a small scale mining tenure in certain circumstances where the holder transitions to an ERA code or an environmental authority, or after the transitional period ends.

Subdivision 2 Other matters

Section 858 Existing codes of practice

This new section of the EP Act provides for the continued operation of existing GED codes of practice made by the Minister under former section 551 of the Act. It provides that a GED code that was in effect immediately before the commencement continues in effect as if it were a GED code made by the chief executive, and approved by a regulation, under new section 551.

The intent of this provision is to ensure continuity of existing GED codes during the transition to the new framework.

Section 859 References to environmentally relevant activities or ERA projects

This new section of the EP Act provides continuity and clarity in interpreting terms across existing legislative and regulatory frameworks, following changes introduced by the amended EP Act – particularly the shift to ERA codes. For example, a prescribed ERA should now be taken to mean general ERA, if the context allows.

Section 860 Effect of change in particular terms

This new section of the EP Act clarifies that section 859 does not affect an existing environmental authority or application of chapter 11, part 3, which relates to review or appeal of decisions, to a decision made before commencement.

Clause 94 Amendment of sch 2 (Original decisions)

This clause makes a consequential amendment to Schedule 2, part 1 of the EP Act list of original decisions for Land Court appeals. It updates the description of the decision under section 318YN(1)(b) to reflect the corrections made to this section by the Bill, which clarify that the chief executive may impose additional conditions under section 318YE(2)(g) if necessary for individual programs.

Clause 95 Amendment of sch 4 (Dictionary)

This clause amends the Dictionary in schedule 4 of the EP Act. These amendments are generally minor or consequential in nature. Specific amendments include:

- the inclusion of new terms (e.g. code-managed ERA, ERA code);
- the relocation of existing definitions into schedule 4 (e.g. mining activity, resource activity); and
- modifying the term ‘standard conditions’ to make it clear that when an activity is regulated under both an agricultural ERA standard and an environmental authority, the agricultural ERA standard operates independently of the environmental authority. In other words, the standard conditions of an agricultural ERA standard do not need to be included in the environmental authority.

Part 3 Amendment of Forestry Act 1959

Clause 96 Act amended

This clause specifies that this part amends the Forestry Act. A note for the clause states that there are also amendments in schedule 1, part 2 of the Bill.

Clause 97 Insertion of new s 22

This clause inserts a new section 22 (Approved forms).

22 Approved forms

This new section of the Forestry Act provides that the chief executive may approve forms for use under this Act. Approved forms are provided for separately for part 6E (Registration of interests in State plantation forests) in section 61RU, therefore this new section does not apply to part 6E of this Act. A note advises to refer to section 61RU which allows the registrar of titles to approve forms under part 6E.

Clause 98 Amendment of s 35 (Granting of permit for land within State forest or timber reserve)

This clause amends section 35 to update the list of permits able to be granted within a State forest or timber reserve to include a commercial activity permit to ensure consistency with the NC Act and the RAM Act. This includes consistency for the term of the permit being up to 5 years, unless the permit is being granted as part of a single integrated permission with a permission under the MP Act. Where activities occurring under a commercial activity permit and a permission under the MP Act are combined into a single integrated permission, then the term may reflect the term of the MP Act permission. The amendment also clarifies that the grant of a commercial activity permit is for a purpose other than getting forest products (which includes quarry materials). Authorisation to get forest products under permits and licences under sections 55 and 56 of the Act is intended to continue as it currently does. The clause also adds organised event permits to section 35 to achieve consistency with the *Nature Conservation (Protected Areas Management) Regulation 2024*.

Despite commercial activity permits and organised event permits being previously granted under the general powers of the chief executive under the Forestry Act, this provision clarifies the specific power and the term of both permit types. These permit types are currently included in the *Forestry Regulation 2024* fee schedule. The term for which a camping permit may be granted is currently specified in section 35C of the Act, however this clause also inserts this term in section 35 to ensure consistency with other permits granted under this section.

The references to occupation permits, stock grazing permits and apiary permits are amended to refer to permit in the singular.

A note advises to see section 38 in relation to single integrated permissions.

Subsection (1A) provides clarification that the chief executive's power to authorise is not limited to the permit types listed in subsection 1. In addition to the permits listed in subsection (1), there may be other forms of authorisation, such as licences or authorities, leases, agreements, or contracts used to permit these activities. A note advises to see section 56 for an example.

References to "SEQFA forest reserves" in relation to stock grazing permits are removed from section 35, as there are no longer any permits of this type in effect, and therefore provisions around their term are not required.

Clause 99 Insertion of new s 38

This clause inserts new section 38 (Single integrated permissions).

38 Single integrated permissions

This new section of the Forestry Act establishes the framework for 'single integrated permissions', a permission that includes either a commercial activity permit or organised event permit under the Forestry Act with a 'related permission' - an

equivalent permit under the NC Act or the RAM Act, or a marine park permission under the MP Act for a similar activity or purpose. This will allow one document to be used for the grant of several permissions.

The terms 'commercial activity permit' and 'organised event permit' are consistent under the NC Act and the RAM Act, however under the MP Act tourism activities are authorised under a 'marine park permission', hence the different use of terms. Marine Park permissions cover a range of activities including tourism activities, research, and works such as construction of jetties or dredging.

Subsection (2) provides that when considering the commercial activity permit or organised event permit that may be granted as a single integrated permission, the chief executive may consider any matter about the related permissions relevant to the forestry permit. For example, if a forestry commercial activity permit is proposed to be granted as a single integrated permission with a protected area commercial activity permit, the chief executive's consideration for the forestry component may include conditions that complement the requirements for the protected area. The permit may be granted as a 'single integrated permission' with a term consistent with any one of the related permissions.

Subsection (3) provides that subsection (2) provides no limitations on the chief executive in exercising any other powers or functions under the Act, including considering any matter the chief executive must or may have regard to.

Clause 100 Amendment of s 40B (Amending conditions of permit)

This clause replaces section 40B(2)(a) with two new paragraphs to specify that the chief executive may amend a condition of a commercial activity permit if necessary to provide for the health or safety of a person or protect a person's property, or to minimise personal risk or safeguard health due to a fire or natural disaster. These amended paragraphs provide improved legislative consistency with to support the single integrated permission framework.

This clause also inserts a new subsection 40B(2)(e) to further specify that the chief executive may amend a condition of a permit only if necessary because they are aware a related permission for the permit has been or will be suspended or cancelled, or amended or replaced with another permission such that it is inconsistent with the permit.

Section numbering has been updated.

Clause 101 Omission of s 40D (Combined commercial activity permits)

This clause omits section 40D as this provision has been combined into the new section 38.

Clause 102 Insertion of new pt 4, div 3

This clause inserts a new division 3 Commercial activity agreements into part 4 Management of State forests, timber reserves and forest entitlement areas. While commercial activity agreements were previously being entered into under the general powers of the chief executive under the Forestry Act, this division will contain specific processes for commercial activity agreements to improve clarity for the operation of the single integrated permission initiative.

Division 3 Commercial activity agreements

Section 41 Chief executive may enter into commercial activity agreement for State forest or timber reserve

This new section of the Forestry Act (Chief executive may enter into commercial activity agreement for State forest or timber reserve) provides that the chief executive may, for the State, enter into a commercial activity agreement with a person to authorise the conduct of a commercial activity, other than for getting forest products in a State forest or timber reserve. The chief executive may decide the process for entering into a commercial activity agreement, and the ability for a commercial activity agreement to be combined with a commercial activity agreement under the MP Act, NC Act, and the RAM Act. Subsection (4) states that the section does not limit the power of the chief executive to enter into an agreement under another provision of this Act. A note advises to see part 6, division 3 for additional provisions about agreements.

Section 42 Content of agreement

This new section of the Forestry Act (Content of agreement) describes the content for a commercial activity agreement, including the mandatory content, and provides that matters in addition to the mandatory content may be included in an agreement. The section states that a commercial activity agreement may be amended at any time, with agreement of all parties. The mandatory content is consistent with the requirements for a commercial activity agreement entered into under the NCA Act and the RAM Act and applied through policy for current commercial activity agreements entered into under the Forestry Act.

Section 42A Term and review of agreements

This new section of the Forestry Act (Term and review of agreements) provides that the maximum term for a commercial activity agreement as 15 years, and that while an agreement may be extended at any time, its term cannot exceed 15 years. The section also provides that agreement may provide for stated review intervals and the matters to be considered in the review. The 15-year term for commercial activity agreements is consistent with the NCA Act and RAM Act and is applied through policy for current commercial activity agreement entered into under the Forestry Act. Similar to other provisions, this is intended to align terms to support the single permission initiative and ensure clarity that the timeframes under the legislation align.

Section 42B Authorisation under agreement

This new section of the Forestry Act (Authorisation under agreement) provides that a commercial activity agreement authorises a person to conduct the commercial activity in the agreement, subject to the stated conditions. The section also provides that the authorisation of a party under an agreement may be transferred to another person, if allowed by the terms of the agreement. This is intended to ensure that commercial activity agreements may be transferred where provided for under the agreement. The purpose is to align transfer provisions across the legislation for a single integrated permission.

Clause 103 Amendment of s 56 (Permits etc.)

This clause amends section 56 to specify that where the chief executive has power and authority to grant or make permits, licences, leases, authorities, agreements or contracts under the Act, these may also be subject to amendments.

Clause 104 Amendment of s 73B (Commercial activities)

This clause replaces subsection (1) with a new subsection that removes the description and examples of what constitutes a commercial activity and relocates them to a newly inserted definition of 'commercial activity' in Schedule 3 Dictionary. This will simplify section 73B while maintaining the intent.

Section 73B (2) outlines the exemptions from the offence of conducting a commercial activity in a State forest or timber reserve. The amendment to this subsection adopts the term 'prescribed equipment', which is applied to capture the equipment and structures that, when used for filming and photography, require authorisation, regardless of the number of people involved in the activity. This term and its application are consistent with the *Forestry Regulation 2024* (previously called a 'prescribed structure') and the *Nature Conservation (Protected Areas Management) Regulation 2024*.

This clause also adds subsection (5) which provides that the section does not apply in relation to getting forest products (which includes quarry material). A note advises to see section 39 about interfering with forest products on State forests or timber reserves.

The clause adds subsection (6) which defines 'drone', consistent with the definition used in the *Forestry Regulation 2024*, and 'prescribed equipment' for the section.

Clause 105 Amendment of s 73C (Organised events)

This clause makes a minor amendment to subsection (1)(a) to clarify that the example provided relates to other activities occurring within the area. The clause also amends the examples of an organised event in subsection (1) to better reflect the types of activities likely to be considered an organised event, and for consistency with the examples in the *Nature Conservation (Protected Areas Management) Regulation 2024*.

Subsection (2) paragraph (c) is also amended to clarify that the offence for conducting an organised event does not apply if the activity is conducted under an organised event permit. This amendment is required now that an 'organised event permit' is specified as a type of permit in the Forestry Act. The definition of 'non-commercial activity' is amended in subsection (3) to remove reference to section 73B(1) as this reference is not required now that 'commercial activity' is defined in the Dictionary. No changes in practice are proposed in terms of application, assessment or grant of these permits.

Clause 106 Amendment of s 96B (Delegation by chief executive – State plantation forests)

This clause provides that the chief executive may delegate functions under the new sections that refer the commercial activity permits, organised event permits and commercial activity agreements. This amendment provides for HQ Plantations to undertake the functions for commercial activity permits, organised event permits, and commercial activity agreements for plantation licence areas as specified under section 35 and section 41.

Clause 107 Insertion of new pt 10, div 7

This clause inserts new part 10, division 7, providing for a transitional provision associated with the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025*.

Division 7 Transitional provision for Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025

Section 151 Existing Permits

This new section of the Forestry Act (Existing permits) provides that permits issued previously for commercial activities and organised events under the general chief executive powers under the Act, other than for getting forest products, are taken to be a commercial activity permit or organised event permit respectively, and the conditions on the permits are continued.

This section also provides that an agreement to conduct a commercial activity previously entered into, other than for getting forest products, is also taken to be a commercial activity agreement, and any terms to the agreement are continued.

This section ensures that permits and agreements previously issued or entered into for a commercial activity or organised event continue to be dealt with under new provisions that specifically deal with these permits and agreements. Permits or agreements previously suspended continue to be suspended. Getting forest products (including quarry material) are not captured as part of this provision as they continue to be authorised under other provisions of the Act.

Clause 108 Amendment of sch 3 (Dictionary)

This clause amends various terms in the Dictionary, it:

- amends 'apiary permits' to refer to a singular 'permit';
- amends 'approved form' to include a form approved under section 22;
- amends 'camping permit' to refer solely to section 35(1)(b). The previous definition of camping permit referred to camping permits granted under section 35A(2), (3) or (4), however this section refers to the procedure of obtaining a camping permit and does not need to be included in the definition;
- adds the term 'commercial activity', as the description and examples are removed from section 73B and consolidated in the definition. The definition is required to clarify what constitutes a commercial activity and provides greater consistency with the NC Act. Although the examples previously in section 73B are still considered commercial activities, fewer examples are provided in the streamlined definition;
- adds the term 'commercial activity agreement' with a cross reference to new section 41(1);
- amends the term 'commercial activity permit' to provide a cross reference to section 35(1)(e);
- amends 'occupation permits' to refer to a singular 'permit';
- adds 'organised event' with a cross reference to section 73C(1);
- adds 'organised event permit' with a cross reference to section 35(1)(f);
- adds the term 'related permission' which, for a commercial activity permit or organised event permit, means an equivalent permit under the NC Act or the RAM Act, or a marine park permission under the MP Act for a similar activity or purpose;
- adds the term 'single integrated permission' with a cross reference to new section 38(2)(c); and
- amends 'stock grazing permits' to refer to a singular 'permit'.

Part 4 Amendment of Geothermal Energy Act 2010

Clause 109 Act amended

This clause states that this part amends the *Geothermal Energy Act 2010.* The provision also notes that other amendments to the *Geothermal Energy Act 2010* are included in schedule 1.

Clause 110 Amendment of sch 2 (Dictionary)

This clause amends the Dictionary in schedule 2 of the *Geothermal Energy Act 2010* as a consequence of establishing ERA codes under the amendment Act. ERA codes may be developed under the EP Act to manage certain ERAs in place of regulating via an environmental authority. The activities authorised, or to be authorised, under a geothermal tenure or proposed tenure may be managed under an ERA code or an environmental authority.

The provisions define terms relevant to geothermal authorities that are regulated under the EP Act. An environmental authority refers to an authority issued under that Act. An ERA code is a code under the Act that sets out standard conditions for certain ERAs. A relevant environmental authority, in the context of a geothermal tenure or proposed geothermal tenure,

is an authority issued for activities authorised or to be authorised under the tenure that require an environmental authority. A relevant environmental condition means either a condition of the relevant environmental authority or, if the activity is carried out under an ERA code, a condition of that code that applies to the activity. These definitions ensure that environmental obligations and compliance requirements are clearly linked to the tenure and the regulatory framework under which the activities are conducted.

Part 5 Amendment of Greenhouse Gas Storage Act 2009

Clause 111 Act amended

This clause states that this part amends the *Greenhouse Gas Storage Act 2009.* The provision also notes that other amendments to the *Greenhouse Gas Storage Act 2009* are included in schedule 1.

Clause 112 Amendment of sch 2 (Dictionary)

This clause amends the Dictionary in schedule 2 of the *Greenhouse Gas Storage Act 2009* as a consequence of establishing ERA codes under the amendment Act. ERA codes may be developed under the EP Act to manage certain ERAs in place of regulating via an environmental authority. The activities authorised, or to be authorised, under a greenhouse gas authority or proposed authority may be managed under an ERA code or an environmental authority.

The provisions define terms relevant to greenhouse gas (GHG) authorities that are regulated under the EP Act. They clarify that an environmental authority is one issued under the EP Act, and an ERA code refers to a code under that Act. A relevant environmental authority, in the context of a GHG authority or proposed GHG authority, is one issued for activities authorised or to be authorised under the GHG authority that require an environmental authority. A relevant environmental condition includes either a condition of the relevant environmental authority or, if the activity is carried out under an ERA code, a condition of that code that applies to the activity. These definitions ensure that environmental obligations and compliance requirements are clearly linked to the regulatory framework governing GHG activities.

Part 6 Amendment of Mineral and Energy Resources (Financial Provisioning) Act 2018

Clause 113 Act amended

This clause states that this part amends the *Mineral and Energy Resources (Financial Provisioning) Act 2018* (MERFP Act).

Clause 114 Amendment of s 3 (Main purposes)

This clause amends section 3 of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning all new small scale mining activities from prescribed conditions to ERA codes under the amendment Act. This amendment is necessary to reflect

that the requirement for holders of authorities to pay a contribution to the scheme fund or give a surety under the MERFP Act will not apply to new small scale mining activities or existing small scale mining tenure holders who have transitioned to an ERA code and are removed from the framework.

The definition of small scale mining activities and references to holders of small scale mining tenures will no longer be used for these activities; instead they will be referred to as a 'resource ERA' managed by an 'ERA code'.

Prescribed conditions under the current EP Act will only be relevant to small scale mining activities operating prior to commencement. For these activities, the prescribed conditions will continue to apply for a transitional period.

Clause 115 Amendment of s 5 (Relationship with Environmental Protection Act 1994)

This clause amends section 5 of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act The definition of small scale mining activities and references to holders of small scale mining tenures will no longer be used; instead these activities will be referred to as 'resource ERAs' and 'code-managed ERAs'. In addition, these tenure holders will not be required to pay surety under the MERFP Act if they are operating under an ERA code. This amendment is necessary to ensure small scale mining tenure holders operating under an ERA code are removed from the framework.

Clause 116 Amendment of s 6 (Act does not affect other rights or remedies)

This clause amends section 6 of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act. These tenure holders will not be required to pay surety under the MERFP Act if they are operating under an ERA code. This amendment is necessary to ensure small scale mining tenure holders operating under an ERA code are removed from the framework.

Clause 117 Amendment of s 25 (Cash surety account)

This clause amends section 25 of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act. These tenure holders will not be required to pay surety under the MERFP Act if they are operating under an ERA code. This amendment is necessary to ensure small scale mining tenure holders operating under an ERA code are removed from the framework.

Clause 118 Amendment of s 53 (Application of subdivision)

This clause amends section 53 of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act. These tenure holders will not be required to pay surety under the MERFP Act if they are operating under an ERA code. This amendment is necessary to ensure small scale mining tenure holders operating under an ERA code are removed from the framework.

Clause 119 Amendment of s 55 (Holder must give surety)

This clause amends section 55 of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act. These tenure holders will not be required to pay surety under the MERFP Act if they are operating under an ERA code. This amendment is necessary to ensure small scale mining tenure holders operating under an ERA code are removed from the framework.

Clause 120 Amendment of s 55A (When surety must be given)

This clause amends section 55A of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act. These tenure holders will not be required to pay surety under the MERFP Act if they are operating under an ERA code. This amendment is necessary to ensure small scale mining tenure holders operating under an ERA code are removed from the framework.

Clause 121 Amendment of s 58 (Release of surety)

This clause amends section 58 of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act. These tenure holders will not be required to pay surety under the MERFP Act if they are operating under an ERA code. This amendment is necessary to ensure small scale mining tenure holders operating under an ERA code are removed from the framework.

Clause 122 Amendment of s 59 (Notification of administering authority)

This clause amends section 59 of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act. These tenure holders will not be required to pay surety under the

MERFP Act if they are operating under an ERA code. This amendment is necessary to ensure small scale mining tenure holders operating under an ERA code are removed from the framework.

Clause 123 Amendment of s 61 (Administration fee for particular sureties)

This clause amends section 61 of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act. These tenure holders will not be required to pay surety under the MERFP Act if they are operating under an ERA code. This amendment is necessary to ensure small scale mining tenure holders operating under an ERA code are removed from the framework.

Clause 124 Amendment of s 67 (Requesting entity may ask for realisation of surety)

This clause amends section 67 of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act. These tenure holders will not be required to pay surety under the MERFP Act if they are operating under an ERA code. This amendment is necessary to ensure small scale mining tenure holders operating under an ERA code are removed from the framework.

Clause 125 Amendment of s 69 (Replenishment of surety)

This clause amends section 69 of the MERFP Act to remove reference to a small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act. These tenure holders will not be required to pay surety under the MERFP Act if they are operating under an ERA code. This amendment is necessary to ensure small scale mining tenure holders operating under an ERA code are removed from the framework.

Clause 126 Insertion of new pt 7, div 3

This clause inserts new part 7, division 3 to ensure that any existing surety provided by small scale mining tenure holder for a small scale mining activity to the scheme manager under the MERFP Act is released back to the relevant tenure holder. This is a consequential amendment made as a result of removing the prescribed conditions requiring payment of surety.

Division 3 Transitional provisions for Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025

Section 110 Release of surety provided for small scale mining tenure

This new section applies in relation to a surety given by the holder of a small scale mining tenure under part 3, division 2 as in force from time to time:

- before the commencement; and
- after the commencement, including any replenishment of the surety under section 69 because of the operation of the EP Act, section 851.

It provides that the scheme manager must release the surety as soon as practicable after:

a) the commencement; or
b) if, on the commencement, the holder is carrying out the small scale mining activity under the EP Act, section 851—the holder starts carrying out the activity under an ERA code or environmental authority under that Act, or the transitional period ends.

Note that subsection (a) only applies in circumstances where the holder is no longer carrying out the small scale mining activity as provided under the EP Act, section 851.

Financial surety will no longer be required for these activities.

In relation to the release of surety, the term 'as soon as practicable' is not defined, including in the *Acts Interpretation Act 1954*. However, it is generally understood to mean that an action must be taken without undue delay, having regard to the circumstances. It does not require immediate action but requires reasonable promptness. In assessing what is practicable, relevant factors include the complexity and scale of the task, available resources, and any external dependencies. For the purposes of section 110, the number of affected small scale miners and volume of transactions will be legitimate considerations, as the scheme manager's obligation will likely involve refunding over 3,000 financial sureties. The timeframe is therefore expected to be longer than if only a small number of refunds were required. The requirements of the provision to release the surety as soon as practicable after the referenced events will be satisfied provided the scheme manager acts diligently and without unnecessary delay.

Section 110 also provides that the scheme manager may release the surety to the holder only if there is no existing claim for the surety and the scheme manager is satisfied there is no potential claim for the surety. One way the scheme manager may be satisfied there is no potential claim for the surety is if the chief executive (environment) gives the scheme manager a notice stating they will not be making a claim for the surety. This may also influence timing for the release of individual sureties.

Clause 127 Amendment of sch 1 (Dictionary)

This clause amends Schedule 1 (Dictionary) of the MERFP Act to remove the definition of small scale mining tenure as a consequence of transitioning certain small scale mining activities to ERA codes under the amendment Act and removing the prescribed conditions requiring payment of surety under the MERFP Act.

Part 7 Amendment of Mineral Resources Act 1989

Clause 128 Act amended

This clause states that this part amends the *Mineral Resources Act 1989* (MR Act).

Clause 129 Amendment of s 25 (Conditions of prospecting permit)

This clause amends section 25 of the MR Act as a consequence of phasing out prescribed conditions for small scale mining activities. The reference to a prescribed condition for small scale mining activities in this section will be replaced with a general reference to the relevant environmental condition for the prospecting permit. This amendment has been made to provide maximum flexibility within the framework, ensuring that if activities conducted under a prospecting permit are no longer classified as an ERA under the EP Act (e.g. they are prescribed as an 'excluded resource activity'), no further changes to the MR Act will be necessary. The generic reference to 'relevant environmental condition' ensures such future regulatory changes are already accommodated.

Clause 130 Amendment of s 74 (Grant of mining claim to which no objection is lodged)

Existing section 74(2)(c) requires that, for a mining claim to be granted (where no objections have been lodged), the Minister must be satisfied that an environmental authority has been issued for all activities authorised by the proposed mining claim—unless the claim is for small scale mining activities.

This clause amends section 74 to remove reference to small scale mining activities from paragraph (2)(c) as a consequence of phasing out prescribed conditions for small scale mining activities and transitioning certain activities to an ERA code under the EP Act. The definition of small scale mining activities and references to holders of small scale mining tenures will no longer be used; instead these activities will be referred to as 'resource ERAs' and 'code-managed ERAs'. This amendment is necessary to clarify that the provision does not apply to mining claims for activities carried out under an ERA code, as these can be undertaken without an environmental authority.

Clause 131 Amendment of s 334ZV (Deciding application for water monitoring authority)

This clause amends section 334ZV to replace paragraph (2) and clarify that the Minister must not grant the water monitoring authority unless the water monitoring authority is to authorise activities for which an environmental authority is required, and the environmental authority has been issued. ERA codes may be developed under the EP Act to manage certain ERAs in place of regulating via an environmental authority. The activities authorised or to be authorised under a water monitoring authority may be managed under an ERA code, an environmental authority or general environmental duty. This amendment is necessary to make it clear that the

provision does not apply to water monitoring authorities to authorise activities that can be carried out under an ERA code or managed through the general environmental duty.

Clause 132 Amendment of s 344 (Definitions for part)

This clause amends section 344 of the MR Act to include new definitions and update existing definitions to reflect the introduction of ERA codes. Mining tenures that have ceased in operation have been defined as 'former mining claim or lease' and distinguished from those sites operating under an ERA code. The definition of 'abandoned mine site' and 'final rehabilitation site' have been updated accordingly, to ensure sites are not deemed abandoned or requiring final rehabilitation if active oversight exists under an ERA code.

Clause 133 Amendment of s 344B (Meaning of *rehabilitation activity*)

This clause amends the definition of 'rehabilitation activity' to include activities under rehabilitation conditions for code-managed ERAs carried out under an ERA code. This could apply, for example, to rehabilitation for small scale mining activities operating under an ERA code. It ensures that rehabilitation obligations apply consistently across legislative frameworks, despite the introduction of ERA codes. The clause also inserts a definition of 'rehabilitation conditions' for a code-managed ERA.

Clause 134 Amendment of s 344D (Authorisation to carry out rehabilitation activities on final rehabilitation site)

Section 344D allows the chief executive to authorise a person who holds an environmental authority or a PRCP schedule for mining activities previously conducted on a final rehabilitation site to enter that site to carry out rehabilitation activities. The authorisation must be in writing and specify the period during which it applies. It enables the holder to undertake rehabilitation activities even if they are not otherwise authorised under the Act to do so, and also permits employees, officers, or contractors engaged by the holder to enter the site for the same purpose. However, the authorisation does not extend to activities that trigger the right to negotiate provisions, which typically relate to native title considerations.

This clause amends section 344D to extend these provisions to code-managed ERAs, to enable the chief executive to authorise a relevant person to carry out rehabilitation activities. This is a consequential amendment of phasing out prescribed conditions for small scale mining activities and transitioning certain activities to ERA codes. It will also allow for the introduction of further code-managed resource ERAs in the future.

Clause 135 Amendment of s 345 (Compensation)

This clause amends section 345 as a consequence of amending section 344D.

Clause 136 Amendment of s 348 (Liability for payment of compensation to native title holders)

This clause amends section 348 as a consequence of amending section 344D.

Clause 137 Amendment of s 391A (Restriction on decisions or recommendations about mining tenements)

This clause amends section 391A to ensure the restriction on granting, varying or renewing mining tenements under subsection (3) does not apply to a resource ERA that can be carried out under an ERA code. It does this by limiting section 391A so that it only applies to 'relevant resource ERAs'. 'Relevant resource ERA' is then defined in the dictionary in schedule 2 to mean a resource ERA under the Environmental Protection Act for which an environmental authority is required under that Act.

The clause also makes other amendments to section 391A to remove references to small scale mining activities from paragraph (1)(a) and (1)(b) as a consequence of phasing out prescribed conditions for small scale mining activities and transitioning certain activities to ERA codes under the amended Act. The definition of small scale mining activities and references to holders of small scale mining tenures will no longer be used; instead these activities will be referred to as 'resource ERAs' and 'code-managed ERAs'.

Clause 138 Amendment of sch 2 (Dictionary)

This clause inserts a number of new definitions as a consequence of introducing ERA codes and code-managed ERAs under the EP Act.

It also amends the definition of 'mining project' to reflect the new name for resource projects as 'resource ERA projects', as a consequence of transitioning resource activities to resource ERAs.

Part 8 Amendment of Nature Conservation Act 1992

Clause 139 Act amended

This clause states that this part amends the *Nature Conservation Act 1992*.

Clause 140 Amendment of s 127A (Functions of conservation officers)

This clause amends section 127A of the NC Act to include investigating, monitoring and enforcing compliance with a relevant planning provision as a function of a conservation officer.

Clause 141 Amendment of s 144 (Power to stop and search vehicles etc.)

This clause amends section 144 of the NC Act to allow a conservation officer to enter or board a vehicle, boat or aircraft if the officer suspects on reasonable grounds that it has been used in the commission of an offence against a 'relevant planning provision' or may afford evidence of such. A conservation officer may exercise the powers set out in section 147 of the NC Act after entering or boarding.

This clause also amends section 144 of the NC Act to allow a conservation officer to seize a particular thing if, while searching the vehicle, boat or aircraft, the officer believes on

reasonable grounds it will afford evidence of the commission of an offence against a 'relevant planning provision'.

Clause 142 Amendment of s 145 (Entry and search—monitoring compliance)

This clause amends section 145 of the NC Act to allow a conservation officer to enter any place at any reasonable time of the day or night for the purpose of finding out whether a 'relevant planning provision' is being complied with. A conservation officer must not enter a place unless the occupier consents, a warrant authorises entry or it is a place to which the public are admitted, and it is open for admission. A conservation officer may exercise the powers set out in section 147 of the NC Act after entering a place.

Clause 143 Amendment of s 146 (Entry and search—evidence of offences)

This clause amends section 146 of the NC Act to allow a conservation officer to enter a place if the officer has reasonable grounds for suspecting that there is a particular thing in the place that may afford evidence of the commission of an offence against a 'relevant planning provision'. A conservation officer must not enter a place unless the occupier consents or a warrant authorises entry. A conservation officer may exercise the powers set out in section 147 of the NC Act after entering a place.

This clause also amends section 146 to allow evidence of an offence against a 'relevant planning provision' to be seized and kept for 6 months. If a prosecution for such an offence is instituted within the 6 months and the evidence is relevant, it may be kept until the completion of the proceeding and any related appeal.

Clause 144 Amendment of s 148 (Monitoring warrants)

This clause amends section 148 of the NC Act to allow a conservation officer to apply to a magistrate for a warrant to enter a particular place for the purpose of finding out whether a 'relevant planning provision' is being complied with. A conservation officer may exercise the powers set out in section 147 of the NC Act after entering a place.

Clause 145 Amendment of s 149 (Offence related warrants)

This clause amends section 149 of the NC Act to allow a conservation officer to apply to a magistrate for a warrant to enter a particular place and seize a particular thing that may afford evidence of the commission of an offence against a 'relevant planning provision'. A conservation officer may exercise the powers set out in section 147 of the NC Act after entering a place.

Clause 146 Amendment of s 151 (Conservation officer may require name and address)

This clause amends section 151 of the NC Act to allow a conservation officer to require a person to state their name and address if the officer finds the person committing an offence against a 'relevant planning provision' or suspects on reasonable grounds that the person has

just committed such an offence. A conservation officer may also exercise the power if they believe on reasonable grounds that the name and address of the person is required for the administration or enforcement of a 'relevant planning provision'. The person does not commit an offence for not complying with a conservation officer's requirements if the person is not proved to have committed the offence against a 'relevant planning provision'.

Clause 147 Amendment of s 152 (Power to require information from certain persons)

This clause amends section 152 of the NC Act to allow a conservation officer to require a person to give information if an offence against a 'relevant planning provision' has happened and the person may be able to provide relevant information. The person does not commit an offence for not complying with a conservation officer's requirements if the information sought is not in fact relevant to the offence.

Clause 148 Amendment of s 159B (Court may order compensation)

This clause amends section 159B of the NC Act to allow payment of compensation from the State to be claimed and ordered in a proceeding for an offence against a 'relevant planning provision' brought against a person. The compensation must relate to a loss or expense incurred by the person because of the exercise or purported exercise of a power under part 9 of the Act.

Clause 149 Amendment of schedule (Dictionary)

This clause amends the defined term 'protected area' in the dictionary to include a reference to the meaning stated in section 28 of the Act.

This clause also amends the schedule dictionary to insert the new defined term, 'relevant planning provision'. The term 'relevant planning provision' means a provision of the *Planning Act 2016* to the extent an offence against the provision relates to protected wildlife and its habitat under this Act (i.e. the NC Act). This definition extends conservation officer powers for investigation related to protected wildlife and its habitat. However, this is limited by Planning Act offences being linked to the NC Act. In practice, this would apply only to matters that are explicitly within the jurisdiction of the State and the NC Act. Currently, this applies to interfering with koala habitat.

Part 9 Amendment of Petroleum Act 1923

Clause 150 Act amended

This clause states that this part amends the *Petroleum Act 1923*.

Clause 151 Amendment of s 2 (Definitions)

This clause amends section 2 to define terms relevant to environmental authorities under the EP Act, as a consequence of introducing ERA codes under the amendment Act. It clarifies that:

- an environmental authority is one issued under the EP Act; and
- a relevant environmental authority—in the context of a *Petroleum Act 1923* petroleum tenure—is one issued for activities that are authorised under the tenure and require an environmental authority (i.e. not activities that can be undertaken under an ERA code).

Clause 152 Amendment of s 75WC (Deciding application for water monitoring authority

This clause amends section 75WC as a consequence of introducing ERA codes. It provides that, if a water monitoring authority is to authorise activities for which an environmental authority is required under the EP Act, the water monitoring authority must not be granted unless an environmental authority for the activities has been issued. This restriction would not apply if the activities do not require an environmental authority and can instead be carried out under an ERA code.

Clause 153 Amendment of s 157 (Environmental conditions prevail)

This clause amends the definition of relevant environmental conditions as a consequence of introducing ERA codes. The new definition provides that a relevant environmental condition means either a condition of any relevant environmental authority for the tenure or, if any of the activities are to be carried out under an ERA code, a condition of that code that applies to the carrying out of the activities.

Part 10 Amendment of Petroleum and Gas (Production and Safety) Act 2004

Clause 154 Act amended

This clause states that this part amends the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act).

Clause 155 Amendment of s 799C (Meaning of *abandoned operating plant*)

This clause amends section 799C of the P&G Act as a consequence of transitioning certain activities to ERA codes under the amendment Act.

Clause 156 Amendment of sch 2 (Dictionary)

This clause amends schedule 2 to define terms relevant to environmental authorities under the EP Act, as a consequence of introducing ERA codes under the amendment Act. It clarifies that an environmental authority is one issued under the EP Act, and an ERA code refers to an ERA code under that Act. A relevant environmental authority, in the context of a petroleum authority, is one issued for activities authorised or to be authorised under the petroleum authority that require an environmental authority (i.e. not activities that can be undertaken under an ERA code). A relevant environmental condition means either a condition of a relevant environmental authority or, if any of the activities authorised or to be authorised under the

petroleum authority are carried out under an ERA code, a condition of that code that applies to the activity. These definitions ensure that environmental compliance obligations are clearly linked to the regulatory framework governing petroleum activities.

Part 11 Amendment of Recreation Areas Management Act 2006

Clause 157 Act amended

This clause specifies that this part amends the RAM Act. A note states that additional amendments are in schedule 1, part 2 of the Bill.

Clause 158 Amendment of s 35 (Term of permits)

This clause amends section 35 to amend the maximum term for a commercial activity permit from 3 years to 5 years, unless the permit is being granted as part of a single integrated permission that includes a permission under the MP Act, or as part of a GBR region permit. In this case, the term may reflect the term of the MP Act permission for the single integrated permission, or the Commonwealth permission (under the *Great Barrier Reef Marine Park Act 1975* (Cwlth)) for the GBR region permit. A note also advises to see section 55A in relation to GBR region permits and section 55L for single integrated permissions.

Clause 159 Replacement of s 55A (Form of commercial activity permit)

This clause replaces section 55A with a revised section (Combining permit with Great Barrier Reef Marine Park region permission). This amendment removes part of the section which is now covered in the new section 55L (Single integrated permissions).

Section 55A Combining permit with Great Barrier Reef Marine Park region permission

This new section of the RAM Act clarifies that with the Commonwealth's agreement, a commercial activity permit may be combined with a permission under the *Great Barrier Reef Marine Park Act 1975* (Cwlth), and if also required, a permission under the MP Act to form a GBR region permit.

Clause 160 Omission of pt 4, div 5A (Transfer of particular commercial activity permits)

This clause omits part 4, division 5A. Transfer of commercial activity permits will be covered in the new part 4, division 5, subdivision 3.

Clause 161 Insertion of new pt 4, div 5, sdiv 3

This clause inserts a new Subdivision 3 Transferring commercial activity permits.

Subdivision 3 Transferring commercial activity permits

Section 55F Commercial activity permit transferable

This new section of the RAM Act (Commercial activity permit transferable) states that all commercial activity permits are transferable, including those that are part of a single integrated permission. GBR region permits (previously called 'joint permission permits') continue to be transferable.

Section 55G Application to transfer permit

This new section of the RAM Act (Application to transfer permit) outlines the application requirements for transfer of a commercial activity permit, which replaces the old section 55H. The section also states that an application may not be made to transfer a commercial activity permit that has been suspended.

Section 55H Considering transfer application

This new section of the RAM Act (Considering transfer application) replaces the old section 55I and outlines the matters the chief executive must have regard to when considering an application to transfer a commercial activity permit. This includes whether the proposed transferee is a suitable person, whether there is adequate insurance cover for the proposed activities (unless the chief executive considers insurance is not required), whether the holder of the permit or proposed transferee owe any fees under the Act or a related Act for a single integrated permission or GBR region permit, and all matters relevant to ensuring the orderly and proper management of the recreation area to which the permit applies.

In considering if the proposed transferee is a suitable person, the chief executive may have regard to the matters in sections 50(3) and 53(3), as if references to the applicant were a reference to the transferee. Section 50(3) provides that in determining if an applicant is a suitable person, the chief executive may inquire about the applicant, and have regard to any matter relevant to the applicant's ability to carry out the activities for which the permit is sought in a competent and ethical way. For example, this may include the applicant's ability to comply with any requirements about keeping records, providing returns or paying fees that apply to the permit. Section 53(3) provides additional matters for consideration, relating to accumulation of demerit points, suspensions, cancellations and offences.

Section 55I Chief executive's power to require further information

This new section of the RAM Act (Chief executive's power to require further information) replaces the old section 55J and provides that the chief executive may use a notice to ask the holder of a commercial activity permit or the proposed transferee for further information required to decide the application. If the request is not complied

with within the reasonable period of at least 20 business days stated in the notice, the transfer application is deemed to have been withdrawn. The chief executive may also extend the period within which the information must be given.

Section 55J Deciding transfer application

This new section of the RAM Act (Approval or non-approval of transfer) replaces the old section 55K and outlines the process for deciding a transfer application. The chief executive must decide the transfer application within 20 business days of receiving the application or further information requested under section 55I. The chief executive may only approve the transfer application if they are satisfied that the criteria outlined are met. If the application is refused, the chief executive must give both parties an information notice.

Section 55K Steps after approval of transfer

This new section of the RAM Act (Steps after approval of transfer) replaces the old section 55L and outlines the process if the chief executive decides to approve the transfer of the commercial activity permit. This includes cancelling the existing permit and granting a new commercial activity permit to the transferee, authorising the same activities as the cancelled permit. New or different conditions may be imposed under specific circumstances outlined in the section. The transferor is no longer required to return the cancelled permit to the chief executive.

Clause 162 Insertion of new s 55L

This clause inserts a new section ‘Single integrated permission’.

Section 55L Single integrated permission

This new section of the RAM Act (Single integrated permission) provides that a commercial activity permit or organised event permit under the RAM Act may be combined with a marine park permission issued under the MP Act, in addition to a commercial activity permit or organised event permit granted or to be granted under the Forestry Act and the NC Act. These permits are together a ‘single integrated permission’.

Subsection (2) provides that when considering the commercial activity permit or organised event permit that may be granted as a single integrated permission, the chief executive may consider any matter about the related permissions relevant to the recreation areas permit. For example, if a recreation area commercial activity permit is proposed to be granted as a single integrated permission with a protected area commercial activity permit, the chief executive’s consideration for the recreation area component may include conditions that complement the requirements for the protected area. The permit may be granted as a ‘single integrated permission’ with a term consistent with any one of the related permissions.

Subsection (3) provides that subsection (2) provides no limitations on the chief executive in exercising any other powers or functions under the Act, including considering any matter the chief executive must or may have regard to.

Clause 163 Amendment of s 63 (Other amendments (other than immediately))

This clause replaces section 63(1)(a) to (d) with new paragraphs (a) to (c). The amendments in this clause provide improved consistency with the *Nature Conservation (Protected Areas Management) Regulation 2024* regarding when the chief executive may amend a permit to support the single integrated permission framework.

The previous section 63(1) included that the chief executive could amend a permit if they reasonably believed the permit was obtained because of incorrect or misleading information, the holder has contravened a condition of the permit, the holder of a commercial activity permit is no longer a suitable person to hold a permit, the holder has failed to pay a fee or provide information required under the Act, or that the holder is convicted of an offence against the Act. These circumstances have been removed from section 63, however, section 65 of the RAM Act still applies, allowing the chief executive to cancel or suspend a permit (other than immediately).

This clause provides the new circumstances in which the chief executive may amend a permit: if an activity to which the permit applies has been declared a prescribed commercial activity, to ensure fair and equitable access to the recreation area, if a related permission for a single integrated permission has been amended or replaced so that it is not consistent with the permit, or if a related permission has been suspended or cancelled. Amendments are also allowed if required having regard to the purpose or requirement of a related Act for a single integrated permission or GBR region permit. Inclusion of these circumstances will allow necessary amendments to be made, and ensure a single integrated permission may continue to be used when circumstances relating to other parts of the permission change.

The clause also updates the power to amend a permit to ensure the health or safety of a person or to protect a person's property.

Section numbering has been updated.

Clause 164 Amendment of s 64 (Immediate amendment or suspension of permits for safety or conservation)

This clause amends section 64(1)(a) and (b) to clarify that the chief executive may immediately amend or suspend a permit if they reasonably believe this is necessary to provide for the health or safety of a person or protect their property, or to minimise personal risk or safeguard health due to a fire or natural disaster. Existing section 64(1)(c) also allows the chief executive to immediately amend or suspend a permit to conserve or protect cultural and natural resources. Section 64(1)(d) is added to allow a permit to be immediately amended or suspended if the area to which the permit relates has been declared as a restricted access area or an area closed to the

public. This amended paragraph provides legislative consistency to support the single integrated permission framework.

This clause also amends section 64(2) to clarify the ways in which the chief executive may advise the permit holder of the immediate amendment or suspension of the permit. The permit holder may be advised in any way practicable in the circumstances. Examples are provided verbally, by using a sign or sending a text message to a phone. This amendment provides contemporary procedures for contacting permit holders, when required in urgent circumstances such as natural disaster.

Clause 165 Amendment of s 65 (Cancelling a permit or suspending a permit (other than immediately))

This clause amends section 65(1) to replace paragraph (b)(iv) so that it also applies to single integrated permissions. This amendment allows the chief executive to cancel or suspend a permit other than immediately if a permit that is part of a single integrated permission has been or will be suspended or cancelled, or amended or replaced with another permit or permission such that it is inconsistent with the permit.

This clause also amends section 65(1)(c) to include that chief executive may cancel or suspend a permit (other than immediately) if the holder of a permit has failed to pay a fee or provide information within the required period for a related Act in relation to the permit.

Clause 166 Amendment of s 69 (Chief executive may enter into commercial activity agreement)

This clause amends section 69(3) to provide that a commercial activity agreement under the RAM Act may be combined with a commercial activity agreement entered into under the Forestry Act, the MP Act and the NC Act.

Clause 167 Amendment of s 90 (Immediate amendment or suspension of commercial activity agreements for safety or conservation)

This clause amends section 90(1)(a) and (b) to clarify that the chief executive may immediately amend or suspend a commercial activity agreement if they reasonably believe this is necessary to provide for the health or safety of a person or protect their property, or to minimise personal risk or safeguard health due to a fire or natural disaster. Existing section 90(1)(c) also allows the chief executive to immediately amend or suspend a commercial activity agreement to conserve or protect cultural and natural resources. Section 90(1)(d) is added to allow a commercial activity agreement to be immediately amended or suspended if the area to which the permit relates has been declared as a restricted access area or an area closed to the public. The amendments in this clause provide improved consistency with the *Nature Conservation (Protected Areas Management) Regulation 2024* regarding when the chief executive may amend a commercial activity agreement and supports the use of commercial activity agreements that are combined with commercial activity agreements under other legislation.

This clause also amends section 90(2) to clarify the ways in which the chief executive may advise the party to the commercial activity agreement of the immediate amendment or suspension of the agreement. The party may be advised in any way practicable in the circumstances. Examples are provided: verbally, by using a sign or by sending a text message to a phone. This amendment provides contemporary procedures for contacting parties to an agreement, when required in urgent circumstances such as natural disaster.

Clause 168 Amendment of s 91 (Amending commercial activity agreements (other than immediately))

This clause replaces section 91(1)(a) to (c) with new paragraphs. The amendments in this clause provide improved consistency with the *Nature Conservation (Protected Areas Management) Regulation 2024* regarding when the chief executive may amend a commercial activity agreement and supports the use of commercial activity agreements that are combined with other commercial activity agreements under other legislation.

The previous section 91(1) included that the chief executive could amend a commercial activity agreement if they reasonably believed the agreement was obtained because of incorrect or misleading information, the other party has contravened a condition of the agreement, the other party of a commercial activity agreement is no longer a suitable person, or that the other party is convicted of an offence against the Act. These circumstances have been removed from section 91; however, section 92 of the RAM Act still applies, allowing the chief executive to cancel or suspend a commercial activity agreement (other than immediately).

This clause provides the new circumstances in which the chief executive may amend a commercial activity agreement: if an activity to which the agreement applies has been declared to be a prescribed commercial activity (which would allow conditions of an existing agreement to be updated for consistency with new agreements, if required), to ensure fair and equitable access to the recreation area, for the purpose or requirement of the Act (and for combined commercial activity agreements - having regard to the purpose or requirement of a related Act).

The clause also updates section 91(1)(c) regarding amendments to ensure the health or safety of a person or to protect a person's property.

Clause 169 Amendment of s208 (Internal review decision)

This clause amends subsection (1) to require that the chief executive must give the applicant a notice complying with the QCAT Act, section 157(2) for the internal review decision within 28 days after receiving the application. This amendment provides consistency with the NC Act regarding internal review decision timeframes. This clause also updates references to joint permission permit to a GBR region permit, and updates other terminology regarding permits and permissions.

Subsection (2) is omitted, as this requirement for a notice compliant with the QCAT Act is included in the amended subsection (1), and replaced with a new subsection that allows extension of the time period for an internal review to be completed, if agreed by the applicant.

Clause 170 Amendment of s 211 (Extending time for application)

This clause amends references related to ‘joint permission permit’ and ‘marine park Act’ to be in accordance with the new terms 'GBR region permit’ and ‘GBR region Act’.

Clause 171 Insertion of new pt 11, div 3

This clause inserts new part 11, division 3, providing for a relevant transitional provision associated with the *Environmental Protection (Efficiency and Streamlining) and other Legislation Amendment Act 2025*.

Division 3 Transitional provision for Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025

Section 250 Proposed amendments to permits and commercial activity agreements

This new section (Proposed amendments to permits and commercial activity agreements) provides that if immediately before commencement, the chief executive has given a notice under the former section 63 regarding a proposed amendment of a commercial activity permit or under former section 91 regarding a proposed amendment of a commercial activity agreement, those former sections apply.

Clause 172 Amendment of schedule (Dictionary)

This clause amends various terms in the Dictionary, it:

- amends the term ‘commercial activity’, with the revised definition to provide greater consistency with the NC Act and support alignment of provisions for the single integrated permission. Although the examples previously in the definition are still considered commercial activities, fewer examples are provided in the streamlined definition to reduce complexity. The second part of the definition includes activities that are not a commercial activity in order to aid clarity.;
- adds the term ‘drone’ as this is referred to in the amended definition of ‘prescribed structure’. This definition is consistent with that in the *Recreation Areas Management Regulation 2024*, which will be removed;
- amends the term ‘exempt media activity’ to provide consistent terminology with the *Nature Conservation (Protected Areas Management) Regulation 2024*. The definition now includes filming or photography that involves no more than 10 people and does not involve the construction or use of prescribed equipment, which were activities previously listed in the Dictionary entry for ‘commercial activity’ as not a commercial activity;
- adds the term ‘GBR region Act’ to replace ‘marine park Act’, which is the *Great Barrier Reef Marine Park Act 1975* (Cwlth) or the MP Act. This term is used to clarify the Acts under which a permission under a GBR region permit may be granted;

- adds the term ‘GBR region permit’ to replace ‘joint permission’ to clarify that this existing instrument comprises a commercial activity permit combined with a permission under both the *Great Barrier Reef Marine Park Act 1975* (Cwlth) and the MP Act*;*
- omits the term ‘joint permission permit’ as due to redrafting of the relevant sections, this term is no longer required;
- removes the term ‘marine park permission’;
- adds the term ‘non-commercial activity’, which is used in the definition of ‘organised event’;
- adds the term ‘prescribed equipment’ (formerly ‘prescribed structure’) which more clearly describes the type of apparatus used in commercial filming and photography. The definition is also amended to include a drone, consistent with the *Nature Conservation (Protected Areas Management) Regulation 2024* and *Forestry Regulation 2024*;
- adds the term ‘related Act’ which is an Act under which part of a single integrated permission or GBR region permit has been granted, or an Act under which a combined commercial activity agreement has been entered into;
- adds the term ‘related permission’ which, for a commercial activity permit or organised event permit, means an equivalent permit under the NC Act or the Forestry Act, or a permission under the MP Act for a similar activity or purpose;
- adds the term ‘single integrated permission’ with reference to section 55L where it is defined; and
- amends the examples used for the definition of ‘organised event’ for consistency with the examples used in the *Nature Conservation (Protected Areas Management) Regulation 2024*.

Part 12 Amendment of Regional Planning Interests Act 2014

Clause 173 Act amended

This clause states that this part amends the *Regional Planning Interests Act 2014* (RPI Act).

Clause 174 Amendment of s 24 (Exemption—pre-existing resource activity)

This clause amends section 24 of the RPI Act as a consequence of introducing ERA codes under the EP Act.

Section 24 of the RPI Act currently provides an exemption for resource activities that may be lawfully carried out on the land immediately before land becomes an area of regional interest. An activity may be lawfully carried out on land if: it is carried out under a resource authority or an EA; without the need for further authority relating to the location, nature or extent of expected surface impacts; and information provided in the application identified the location, nature and extent of the expected surface impacts of the activity.

This clause amends section 24 to extend the exemption to an activity that is being carried out lawfully on the land under both a resource authority and an ERA code under the EP Act, where no further approvals or authorities are required in relation to the location, nature, or extent of the expected surface impacts. For the exemption to apply, the application for the resource authority (or its amendment) must have included information identifying the expected surface impacts. This ensures that lawful activity is based on clear and complete disclosure of environmental impacts and that all necessary regulatory approvals are in place.

The requirement for an application to provide information about the location, nature and extent of surface impacts of the activity is necessary to account for situations where the resource activity, while continuing to operate under the code, alters its 'footprint' after the designation of an area of regional interest. Such changes in activity could potentially impact the designated area of regional interest and its associated protected land uses, such as environmental attributes in a Strategic Environmental Area, and therefore would not be captured by this exemption. The intent of the exemption is to ensure any changes to resource activities operating under an ERA code when an area of regional interest is designated continue to address changes related to the location, nature, or extent of the expected surface impacts of the activity on the area of regional interest, consistent with the existing exemption for environmental authorities under section 24(3).

Part 13 Amendment of State Penalties Enforcement Regulation 2014

Clause 175 Regulation amended

This clause provides that this part amends the *State Penalties Enforcement Regulation 2014*.

Clause 176 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

This clause amends Schedule 1 of the *State Penalties Enforcement Regulation 2014* to update the reference for the EP Act. Specifically, it:

- replaces the reference to section 285(2) with section 285(6), reflecting changes made to the offence provision under the amended Act; and
- amends the list of infringement notice offences and fines for nominated laws by inserting entries for the new offences under new sections 463A(1) and 463A(2). The infringement notice fine (penalty units) inserted for each new offence are 5 for individuals and 25 for corporations.

This ensures consistency between the Regulation and the updated legislative framework.

Part 14 Amendment of Waste Reduction and Recycling Act 2011

Clause 177 Act amended

This clause states that this part amends the *Waste Reduction and Recycling Act 2011* (WRR Act).

Clause 178 Amendment of s 224 (Return of seized thing)

This clause replaces section 224(2) and (3) of the WRR Act to provide for the return of a seized thing. New subsection (2) requires the chief executive to return the thing to its owner as soon as the chief executive stops being satisfied there are reasonable grounds for retaining the thing. New subsection (3) provides that if the thing is not returned to its owner within three months after it was seized, the owner may apply to the chief executive for its return.

New subsection (4) requires the chief executive to, within 30 days after receiving the application, return the thing to the owner or, give the owner an information notice about the decision to retain the thing and the grounds for retaining the thing. New subsection (5) provides that reasonable grounds for retaining a seized thing are if the thing is being or likely to be examined, if it is not lawful for the owner to possess the thing or if the chief executive believes it is necessary to continue to keep the thing to prevent its use in committing an offence. It is also a reasonable ground for retaining a seized thing if the thing is needed or may be needed for a proceeding for an offence against the Act that is likely to be started or that has been started but not completed, or an appeal from a decision in a proceeding for an offence against the Act.

New subsection (6) provides that the reasonable grounds in subsection (5) do not limit the grounds that may be reasonable grounds for retaining the seized thing. New subsection (8) provides that examine includes analyse, test, account for, measure, weigh, grade, gauge and identify.

Clause 179 Amendment of s 267 (Summary proceedings for offences)

This clause replaces 267(2) of the WRR Act to provide that a proceeding for an offence against the Act, other than for an offence against section 54, must start within two years after the commission of the offence. New subsection (3) retains that a proceeding for an offence against section 54 must start within six years after the commission of the offence.

The amendment is for the purpose of providing sufficient time to properly investigate and gather necessary evidence of an offence and effectively bring court proceedings for compliance. The ability to properly prosecute offences is an essential element of compliance, necessary to achieve the objects of the WRR Act. The amendments increase efficiency in the compliance process by removing the ambiguity in identifying the time when an offence comes to the ‘complainant’s knowledge’, while providing sufficient time to prosecute offences which are not immediately apparent and offences which require complex investigation.

Clause 180 Insertion of new ch 16, pt 6

This clause inserts new chapter 16, part 6, providing for relevant transitional provisions associated with the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025*.

Part 6 Transitional provisions for Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025

Section 335 Definitions for part

This new section provides definitions for the terms 'amendment Act', and 'former' which are used in this part. The definitions define the amendment Act, the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025,* and any former provision of the Act being the provision in force from time to time before the commencement.

Section 336 Continuation of former s 224 in relation to things seized before the commencement

This new section applies in relation to a thing seized by an authorised person under former chapter 10, part 4, division 3 before the commencement. Former section 224 of continues to apply in relation to the thing as if the amendment Act had not been enacted.

Section 337 Limitation period for starting proceedings

This new section applies in relation to a proceeding for an offence against the Act if the offence was committed before the commencement. Former section 267(2) continues to apply in relation to starting the proceeding as if the amendment Act had not been enacted.

Part 15 Amendment of Water Act 2000

Clause 181 Act amended

This clause states that this part amends the Water Act.

Clause 182 Amendment of s 97 (Environmental authorities)

This section of the Water Act outlines when a person may lawfully take or interfere with overland flow water in connection with an environmental authority or development permit. A person may take water or interfere with its flow by impoundment if the volume or extent is no more than necessary to meet the requirements of an environmental authority or a development permit for an ERA (excluding mining or petroleum activities). However, this is only permitted if the impacts of the water take or interference were assessed during the grant of the authority or permit, and if the authority or permit includes a condition addressing the water use.

This clause amends section 97 of the Water Act as a consequence of amendments made to the EP Act to introduce ERA codes. Specifically, it inserts new subsection (4) for situations where a person is authorised to take or interfere with water under subsection (1) or (2) in connection with an environmental authority that approves an ERA. If an ERA code later comes into effect

and the person starts carrying out the ERA under the code, any existing authorisation to take or interfere with water continues to apply to the person carrying out the activity.

Clause 183 Amendment of s 102 (Authorisations under water plans or regulation)

This clause amends section 102 to expand and clarify the authorisations available for taking or interfering with water under a water plan or regulation. The first amendment to subsection (1)(b) ensures that a person may lawfully interfere with water, in addition to taking it, if necessary to carry out an activity stated in the water plan. The second amendment to subsection (2)(b) updates the reference to align with the broader authorisations described in subsection (1), rather than limiting it to a stated volume. The third amendment introduces a new provision—subsection (3)(aa)—which allows a person to take or interfere with water if necessary to carry out an activity prescribed by regulation, providing additional flexibility where no water plan exists or where the plan does not specify authorisations. These changes support clearer and more flexible water management by aligning authorisations with both water plans and regulatory provisions.

Clause 184 Amendment of s 370 (Obligation to give underground water impact report)

This clause amends section 370 of the Water Act to provide that an UWIR must be prepared within five years of the approval date of the previous UWIR, rather than within every three years of the first UWIR. The amendment also clarifies that the five year period is calculated from the approval date of the most recent UWIR, rather than from the date the report takes effect. This section is also amended to allow the chief executive to agree to a later date if need be. The amendments aim to provide greater flexibility and reduces administrative burden while maintaining effective oversight of groundwater impacts.

Transitional provisions have also been inserted to provide for adjustments to UWIR cycle timeframes as responsible entities shift from a three year cycle to a five year cycle.

Clause 185 Amendment of s 370B (When obligation to give further underground water impact report does not apply)

This clause amends section 370B(5) of the Water Act to clarify how section 370 applies when an UWIR has been amended.

Section 370B applies to a non-CMA tenure holder that has an approved UWIR which estimated zero water take and did not predict any decline in aquifer water levels above the bore trigger threshold. A non-CMA tenure holder meeting these criteria is not required to submit a further UWIR. However, if a tenure holder begins taking water and the chief executive directs that the UWIR be amended, subsection (5) provides that the new five year period begins from the date the amended UWIR is approved.

Clause 186 Amendment of s 376 (Content of underground water impact report)

This clause amends section 376(1) of the Water Act to require that a baseline assessment strategy be included as part of the content of a CMA UWIR. The baseline assessment strategy is treated as a report obligation for a CMA UWIR and is subject to the offence provisions for non-compliance under section 390 of the Water Act.

Section 376 is also amended to align with the new five year reporting timeframe for an UWIR, including the requirement to estimate the quantity of water to be produced or taken and to update the immediately affected area map showing where aquifer water levels are predicted to decline by more than the bore trigger threshold.

Clause 187 Amendment of s 378 (Content of water monitoring strategy)

This clause amends section 378 of the Water Act to clarify that subsection (3) only applies to non-CMA tenure holders. For a water monitoring strategy in a non-CMA UWIR, the responsible tenure holder must include a baseline assessment program for bores that are outside the tenure area but within the long-term affected area. For CMA, this information will instead be provided through the new baseline assessment strategy established under sections 379A and 379B of the Act. Baseline assessments of bores on tenure for non-CMA tenures will be managed through a baseline assessment plan.

Clause 188 Insertion of new ss 379A and 379B

This clause inserts new sections 379A and 379B into the Water Act, introducing the requirements for the baseline assessment strategy in a CMA UWIR.

Section 379A Content of baseline assessment strategy

This new section of the Water Act outlines the content requirements for a baseline assessment strategy in a CMA UWIR. Section 379A includes obligations similar to those for non-CMA tenure holders, with the addition of requirements for water bores located outside of the tenure but within the predicted long-term affected area bores. A CMA UWIR must now include a baseline assessment strategy that incorporates the previous obligations for a baseline assessment plan, along with the new requirements for off-tenure bores within the predicted long-term affected area.

Specifically, the baseline assessment strategy must:

- state whether a baseline assessment has been undertaken before the day a CMA UWIR is given to the chief executive for any identified bore:
  - within the tenure area; and
  - outside the tenure area but within the long-term affected area as mapped under section 376(1)(b)(v);
- where a baseline assessment has not been undertaken before the baseline assessment strategy is given to the chief executive;

  - identify each area (priority area) of a tenure where a bore is or may be located; and
  - identify each bore outside of the tenure but within the long-term affected area.
- for each bore in a priority area, provide a timetable for when a baseline assessment will be completed (see section 379B) and the reasoning for this; and
- for each long-term affected area bore, provide a baseline assessment program which specifies a date by which the baseline assessments must be undertaken.

The baseline assessment strategy does not need to include bores in an area that is demonstrably not being impacted by a tenure holder exercising their underground water rights.

This ensures a consistent and transparent approach to managing water bores both on and off tenure within a CMA, supporting a more comprehensive and prioritised approach to baseline assessments. The amendment also enables the OGIA to plan and coordinate baseline assessments more effectively within a CMA.

Transitional provisions and provisions for annual updates to the baseline assessment strategy (new section 392A) provide for circumstances prior to the approval of a subsequent CMA UWIR. Annual updates to the baseline assessment strategy also mean that new or transferred tenure holders can be taken account of within the baseline assessment strategy.

Section 379B Requirements for baseline assessment timetable for baseline assessment strategy

This new section of the Water Act sets out requirements for a baseline assessment timetable within the baseline assessment strategy for a CMA UWIR. The timetable must include the rationale for the timing of each baseline assessment.

For petroleum tenures, the timetable must ensure that baseline assessments are undertaken for each water bore in a priority area by the earliest of the following:

- before production testing starts (where the bore is within 2 km of the testing and draws from the same aquifer);
- before petroleum production commences; or
- after 30 days of production testing.

This requirement may be varied if the petroleum tenure holder obtains the water bore owner's written agreement to a later assessment date and provides a copy to the OGIA. For mining tenures, the timetable must require baseline assessments for water bores in priority areas before the exercise of underground water rights. These requirements are similar to the requirements of baseline assessment plans outside a CMA.

Clause 189 Amendment of s 386 (Publishing approval and making report available)

This clause amends section 386 of the Water Act to change the reference from all bore owners to bore owners in an immediately affected area or a long-term affected area. The effect of this change is that when an UWIR is approved, the notice about its approval need only be sent to bore owners who are impacted, being those in the immediately affected area and long-term affected area.

Clause 190 Insertion of new s 390A

This clause inserts new section 390A into the Water Act to provide that tenure holders within a CMA must notify the OGIA when they become aware of a change to planned activities that impacts upon the baseline assessment timetable provided in the baseline assessment strategy.

Section 390A Notifying office of particular matters related to approved report for cumulative management area

This new section of the Water Act requires resource tenure holders in a CMA, who are subject to reporting obligations under an UWIR, to notify OGIA if they become aware of certain changes that could affect the baseline assessments. This section also defines the term "baseline assessment strategy" for a CMA to mean the strategy contained in an approved UWIR.

Subsection (2) applies when a tenure holder becomes aware of a material change to their program – either for mining activities or petroleum production/testing activities – that may cause the baseline assessment timetable in a CMA's baseline assessment strategy to no longer comply with the 379B requirements. The holder must provide notice of the change within 20 business days, with a maximum penalty of 50 penalty units for non-compliance.

Similarly, subsection (4) requires the holder to notify OGIA within 20 business days if they become aware that a relevant aquifer in an area previously excluded from the baseline assessment strategy is, or is likely to be, affected by the exercise of their underground water rights above the bore trigger threshold. Failure to notify is subject to a maximum penalty of 50 penalty units.

Clause 191 Amendment of s 391 (Minor or agreed amendments of approved report)

This clause amends section 391 of the Water Act to clarify that a minor amendment made under section 391(1)(a) must not adversely affect a resource tenure holder or a bore owner of a water bore within an immediately affected area or a long-term affected area. As these minor amendments are made without consultation with resource tenure holders or bore owners, this clarification ensures that the changes do not adversely affect anyone who may be impacted.

For clarity, a minor error can include, but is not limited to:

- a clerical or formal error;
- an error in a title or department name;
- a spelling or grammatical error;
- an error or change in terminology that has no effect on the circumstances, information or predictions in an approved UWIR;
- a changed bore registration number;
- an omission of a minor matter; or
- a minor change to reflect an amendment to the Water Act.

Section 391 of the Act is also amended to reduce potential duplication of notification to relevant parties upon the approval of a minor or agreed amendment to an UWIR. The chief executive must give notice of the amendment to the responsible entity – either OGIA or the tenure holder for a non-CMA UWIR. The amended provisions require OGIA to notify affected tenure holders of an amended CMA UWIR.

An amendment made under section 391 of the Act does not reset the timeframe for when the next UWIR is due.

Clause 192 Amendment of s 392 (Direction to propose amendment and consult on proposal)

This clause amends section 392 of the Water Act to clarify that amendments under this section only apply if section 392A does not apply for the amendments. Section 392A covers regular amendments to a CMA UWIR baseline assessment strategy.

An amendment made under section 392 of the Act does not reset the timeframe for when the next UWIR is due. The subsequent UWIR remains due five years from the approval of the previous UWIR.

Clause 193 Insertion of new s 392A

This clause inserts new section 392A into the Water Act to establish a process for regular amendments to the baseline assessment strategy in an approved UWIR for a CMA.

Section 392A Regular amendments to baseline assessment strategy in approved report for cumulative management area

This new section of the Water Act provides for regular (annual) amendments to the baseline assessment strategy for a CMA to be made as required. Under this section, OGIA must before each annual review outcome day consider whether an amendment to the baseline assessment strategy is necessary. As part of this, OGIA must consider any notifications provided by CMA tenure holders under section 390A or if there is a new or transferred tenure holder within a CMA since the previous annual update.

If an update is required, OGIA may propose an amendment to the chief executive following a consultation process with those bore owners and CMA tenure holders

affected by the proposed changes. This process is similar to the consultation and approval process for an amendment made under section 392 of the Act, with some modifications.

The timing of the annual update aligns with the CMA UWIR annual review, and amendments under section 392A of the Act do not reset the five year timeframe for the next UWIR; the UWIR remains due five years from the approval of the previous report. This process ensures the baseline assessment strategy remains current while maintaining a streamlined consultation and approval framework.

Clause 194 Amendment of s 393 (Other amendments)

This clause amends section 393 of the Water Act to reflect the insertion of section 392A such that section 393 only applies in circumstances where section 391, 392 and 392A do not apply. An amendment made under section 393 does not alter the timing of when the next UWIR is due; the subsequent report remains due five years from the approval date of the previous report.

Clause 195 Insertion of new s 396A

This clause inserts new section 396A into the Water Act to clarify how this division applies.

Section 396A Application of division

This new section of the Water Act specifies that the division does not apply to CMA tenure holders, or in instances where there are no water bores in the area of the resource tenure. This is because the obligations for CMA tenure holders are now provided for under section 379A of the Act.

Clause 196 Amendment of s 397 (Obligation to prepare baseline assessment plan)

This clause amends section 397 of the Water Act to reflect the insertion of new section 396A (Application of division). The change to include the application of the division means that the reference to areas with no water bores can be removed from section 397, as it is now covered under section 396A. The removal of s 397(1) results in renumbering of s 397.

Clause 197 Amendment of s 402 (Direction by chief executive to undertake baseline assessment)

This clause amends section 402 of the Water Act to require a copy of the direction notice issued by the chief executive to be given to the relevant tenure holder and OGIA. This amendment is made to facilitate more efficient reporting of baseline assessments.

Clause 198 Amendment of s 403 (Notice of intention to undertake baseline assessment)

This clause amends section 403 of the Water Act to require a copy of the notice from the tenure holder to be given to the bore owner and OGIA. This amendment is made to facilitate more efficient reporting of baseline assessments.

Clause 199 Amendment of s 404 (Bore owner must give information)

This clause amends section 404 of the Water Act to replace the reference to 'under this part' (i.e. chapter 3, part 3) with 'relating to baseline assessments'. This enables a CMA tenure holder to ask a landowner for information under this section. This is a consequential amendment resulting from the introduction of the baseline assessment strategy into the requirements for a CMA UWIR.

Clause 200 Amendment of s 415 (Notice of intention to undertake bore assessment)

This clause amends section 415 of the Water Act to require a copy of the notice from the tenure holder to be provided to the bore owner and OGIA. This amendment is made to facilitate more efficient reporting of baseline assessments.

Clause 201 Amendment of s 418 (Direction by chief executive to undertake bore assessment)

This clause amends section 418 of the Water Act to require a copy of the direction notice issued by the chief executive to be given to both the relevant tenure holder and OGIA. This amendment is made to facilitate more efficient reporting of bore assessments.

This section is also amended to require the chief executive to provide a bore owner and a tenure holder an information notice about a decision made under this section to not require a bore assessment by the tenure holder in the situation that an assessment was applied for by a bore owner. This amendment is to facilitate more transparent arrangements for bore owners and tenure holders regarding bore assessments.

This decision is an original decision and is subject to the applicable internal and external review and appeal processes. Under chapter 6 of the Water Act, an information notice makes a person an interested person for the purposes of internal and external review.

Clause 202 Insertion of new ch 3, pt 5, div 2, sdiv 4

This clause inserts new subdivision 4 into chapter 3, part 5, division 2 of the Water Act to allow bore owners to apply to the chief executive for a bore assessment notice for the water bore.

Subdivision 4 Application for bore assessment notice

Section 419A Definition for subdivision

This new section of the Water Act provides the definition of bore assessment notice for the purposes of new sections 419B and 419C of the Act. A bore assessment notice is a direction notice issued by the chief executive under section 418(2) of the Act.

Section 419B Application for bore assessment notice

This new section of the Water Act enables bore owners of water bores that are on a resource tenure to apply, with evidence, to the chief executive to have a bore assessment notice issued to the relevant tenure holder. The evidence provided by the bore owner must be linked to the capacity of the bore. Evidence may be related to a bore's pumps or other infrastructure, health and safety risks, or information that shows an impact on the bore's ability to provide water for its purpose. Section 419B makes it clear that a bore assessment notice may only be applied for prior to a make-good agreement being entered into between the bore owner and the relevant tenure holder.

Section 419C Decision on application

This new section of the Water Act provides that the chief executive must decide within a decision period of 60 business days, or a longer period if agreed to by the applicant, whether to issue a bore assessment notice to the relevant tenure holder. The chief executive must notify the bore owner (through the information notice) of the decision to give the tenure holder a bore assessment notice. This decision is an original decision and is subject to the applicable internal and external review and appeal processes. Under chapter 6 of the Water Act, an information notice makes a person an interested person for the purposes of internal and external review.

Under existing section 418 of the Act, a tenure holder who receives a direction to undertake a bore assessment must either carry out the assessment or make a submission explaining why they should not be required to do so. The additional amendments to section 418 also mean that where the chief executive makes a subsequent decision not to issue a further direction to undertake a bore assessment following a tenure holders submission on a bore assessment notice the applicant and the resource tenure holder must be notified (through an information notice). The amended section 418 also requires that a copy of the bore assessment notice be provided to the OGIA.

The amendment ensures the tenure holder is afforded procedural fairness throughout this process and where a bore assessment notice is not issued, the applicant is aware.

Clause 203 Amendment of s 420 (What is a *make good agreement* for a water bore)

This clause amends section 420 of the Water Act to clarify that a make good agreement is only a make good agreement to the extent that it provides for the following matters:

- the outcome of the bore assessment for the bore;
- whether the bore has, or is likely to have, an impaired capacity;
- if the bore has, or is likely to have, an impaired capacity—the make good measures for the bore to be taken by the responsible tenure holder; and
- that the agreement may be terminated without penalty during the cooling-off period for the agreement.

While a bore owner and a resource tenure holder may agree to include matters in the agreement that are not specified in section 420(1)(b), only the specific matters in section 420(1)(b) would be the subject of the provisions in chapter 3 of the Water Act (i.e., dispute resolution process) and are considered a make-good agreement.

This means that land access provided in a make good agreement is limited to the purposes of chapter 3 and cannot be used for other purposes unless specifically agreed to and as originally intended. The amendment aims to promote better coexistence between bore owners and resource tenure holders, providing clarity and certainty for bore owners while ensuring tenure holders can access land to implement make good measures.

Clause 204 Amendment of s 423 (Requirement to enter into make good agreement and reimburse bore owner)

This clause amends section 423 of the Water Act to require tenure holders to provide a notice to OGIA, in addition to the chief executive, within 20 business days of entering into a make good agreement with a bore owner. A new offence provision has been introduced to ensure that non-compliance can be adequately addressed. Non-compliance with this section carries a maximum penalty of 50 penalty units. This clause also amends the section 423 heading to better reflect the intent of this section.

Clause 205 Insertion of new ch 3, pt 5, div 5

This clause inserts section 437B into the Water Act to provide for annual reporting requirements for make good measures for water bores.

Division 5 Regular reporting about make good obligations

Section 437B Regular reporting to office

This new section of the Water Act requires tenure holders responsible for make good obligations for a water bore to provide OGIA with an annual notice for each reporting period (1 October to 30 September), due by 31 October. The annual notice is to include the following matters:

- if the responsible tenure holder for make good obligations for a water bore has not entered into a make good agreement with the bore owner of the bore—an update on the steps taken to comply with the make good obligation related to entering into an agreement; and
- if the responsible tenure holder for make good obligations for a water bore has entered into a make good agreement with the bore owner of the bore—
  - whether the bore has or is likely to have an impaired capacity; and
  - if the bore has or is likely to have an impaired capacity—
    - the make good measures for the bore to be taken by the holder; and
    - an update on the make good measures for the bore taken by the holder.

Make good measures are measures that ensure the bore owner has access to a reasonable quantity and quality of water for the bore's authorised use or purpose (including providing an alternative water supply) and carrying out a plan to monitor the bore. Specific monetary amounts paid, or to be paid, to the bore owner as compensation must not be included in the notice, however the notice may specify that monetary compensation is a make good measure. Non-compliance with this reporting requirement is an offence and carries a maximum penalty of 500 penalty units. This ensures regular reporting, transparency, and accountability in the implementation of make good obligations while protecting sensitive financial information. The reporting period is set as 1 October to 30 September.

Transitional provisions have been included to require the first notice from tenure holders to cover information from the commencement date of the amendment Act and to be provided by 31 October following commencement.

Clause 206 Insertion of new ch 3, pt 9

This clause inserts new chapter 3, part 9 into the Water Act to provide new section 454A regarding information requests by the manager.

Part 9 Information requests by manager

Section 454A Obtaining information from resource tenure holders about compliance with make good obligations

This new section of the Water Act allows the manager of OGIA to issue a notice to a resource tenure holder requesting information about their compliance with make good obligations for a water bore. The notice must specify how the information is to be provided and allow a reasonable period of at least 20 business days for compliance. Non-compliance with this notice is an offence and carries a maximum penalty of 200 penalty units. To ensure compliance with the FLPs, a subsection has been included to protect individuals from self-incrimination.

Clause 207 Amendment of s 479 (Annual levy for underground water management)

This clause amends section 479 of the Water Act to allow OGIA to use its existing power to raise a levy for all of its functions, rather than only for its functions under chapter 3A of the Water Act. This amendment has been made to include the new advice function related to subsurface impacts from authorised petroleum and gas activities, and to allow for any future functions that may be ascribed to OGIA.

This is a consequential amendment to the Water Act to provide adequate provision for the funding of the functions of OGIA, which were expanded by the *Mineral and Energy Resources and Other Legislation Amendment Act 2024*.

Clause 208 Insertion of new s482A

This clause inserts new section 482A into the Water Act to help clarify the meaning of personal information for this part.

482A Definition for part

This new section of the Water Act defines personal information with reference to section 12 of the *Information Privacy Act 2009*. Personal information means information or an opinion about an identified individual or an individual who is reasonably identifiable from the information or opinion.

Clause 209 Amendment of s 483 (Public access to database)

This clause amends section 483 of the Water Act to protect sensitive personal information about an individual. The amendment means that the publicly available part of the database must not include information that OGIA reasonably believes is commercially sensitive or concerns personal affairs of a person. The term personal information is defined under the *Information Privacy Act 2009* and in new section 482A.

Additionally, section 483 is amended to allow better public access to information from OGIA by replacing ‘and’ between subsections (3)(a) and (3)(b) with ‘or’. The replacement means that a copy of relevant information may be requested by a member of the public without having to also attend the head office of OGIA to inspect the detail.

Clause 210 Amendment of s 484 (Resource tenure holder access to information)

This clause amends section 484 of the Water Act to replace the reference to ‘this chapter’ with ‘chapter 3’. The amendment is a minor clarification to reflect the original intent of the provision, which is to allow a resource tenure holder to have access to any information in the database if OGIA is reasonably satisfied the information would assist the holder in complying with the holder’s UWIR, baseline assessment, make-good and bore assessment obligations.

Clause 211 Amendment of s 485 (Chief executive's access to information)

This clause amends section 485 of the Water Act to ensure the chief executive's access to information from OGIA's database remains appropriate in consideration of personal information. The amendment inserts a reference to personal information, such that information OGIA reasonably believes is commercially sensitive or personal information is also accessible by the chief executive for the purposes of administering chapter 3 of the Water Act.

Clause 212 Insertion of new ch 9, pt 15

This clause inserts new chapter 9, part 15, providing for relevant transitional provisions associated with the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025*.

Part 15 Transitional provisions for Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025

Section 1311 Definitions for part

This new section of the Water Act provides definitions for the terms 'amendment act', 'former', 'new' and 'transitional provision' which are used in this part. -

- amendment Act means the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025*;
- former means a provision that was in force before the commencement of the transitional provision;
- new means the provision in force from the commencement of the transitional provision; and
- transitional provision means a provision of this part.

The definitions clarify the transitional provisions, those provisions in this part, which apply before and after the amendment Act, the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Act 2025.*

Section 1312 Application of former ss 370 and 376 for particular underground water impact reports

This new section of the Water Act provides transitional arrangements for UWIRs given to the chief executive for approval before the commencement of the Amendment Act. Any such UWIR is subject to the existing three year timeframe under the former Act, after which the five year timeframe will apply.

Section 1313 Application of new s 370B(5) in relation to report amended after commencement

This new section of the Water Act is a transitional provision ensuring that new section 370B(5) applies to UWIRs amended after commencement. It applies where, before commencement, the chief executive directed a responsible entity to amend a report

under section 392 but had not yet approved it. If the amended report, approved after commencement, shows a decline in aquifer water levels caused by underground water rights, section 370B(5) applies to the responsible entity. This ensures consistency in how the new reporting and timing provisions operate for UWIRs amended across the transition period.

Section 1314 Application of new s 390A in relation to existing underground water impact report

This new section of the Water Act provides transitional arrangements stating that new section 390A only applies once the transitional arrangements under section 1315 have taken effect.

Section 1315 Amendment of existing underground water impact report to include baseline assessment strategy

This new section of the Water Act provides transitional arrangements allowing an UWIR for a CMA to be amended to include a baseline assessment strategy in certain circumstances existing before commencement, namely where the UWIR was:

- already in effect;
- approved but not yet in effect; or
- submitted to the chief executive but not yet approved.

The amendment to a relevant CMA UWIR must be made by the responsible entity and given to the chief executive at the same time as the annual review for the year following commencement. The consultation and approval processes for the amendment will be the same as those under section 392 and similar to what is required in approving a new UWIR. Once approved, the amended UWIR takes effect under section 385(6), ensuring all existing CMA UWIRs are updated to include a baseline assessment strategy.

Section 1316 Application of new s 392A in relation to existing underground water impact report

This new section of the Water Act provides transitional arrangements for new section 392A of the Act stating that it only applies once the transitional arrangements under section 1315 have taken effect.

Section 1317 Baseline assessment plans for CMA tenures approved before commencement

This new section of the Water Act provides transitional arrangements for the new baseline assessment strategy that forms part of a CMA UWIR. The provision means that where there is an existing chief executive approved baseline assessment plan prepared by a CMA tenure holder, the holder must give a copy of the baseline assessment plan to OGIA and comply with any amended requirements under sections 400, 401(2) and (2A), 403 and 405 of the Water Act. These requirements remain in

place until a baseline assessment strategy is in place for a CMA as part of the relevant UWIR (see new section 1315).

Section 1318 Baseline assessment plans for CMA tenures given, but not approved, before commencement

This new section of the Water Act provides transitional arrangements for an existing CMA tenure holder who has given a baseline assessment plan to the chief executive for approval under section 399 of the Act, but it has not yet been approved. At commencement, the pre-amended (former) provisions under section 399 will apply.

Upon approval of the baseline assessment plan, the CMA tenure holder must comply with any amended requirements under sections 400, 401(2) and (2A), 403 and 405 of the Water Act until a baseline assessment strategy is in place for a CMA.

Section 1319 Make good agreements for water bores entered into before commencement

This new section of the Water Act provides transitional arrangements for amendments to section 420. The transitional provision means that where an existing make good agreement includes matters other than those specified in section 420(1)(b) (other matters), the amended section 420 will not affect those matters in the existing agreement.

Essentially, where these other matters are included in a make good agreement made before commencement, the make good agreement remains valid; however, upon commencement, only those matters that are specified in section 420(1)(b) would be considered appropriate for application of the provisions in chapter 3 of the Water Act (i.e. dispute resolution processes).

Section 1320 Continuation of requirement to advise chief executive of make good agreement entered into before commencement

This new section of the Water Act provides transitional arrangements that mean that any make good agreements entered into prior to commencement continue and remain in effect.

Section 1321 Reporting period for first regular report after commencement

This new section of the Water Act provides transitional arrangements for the new reporting requirements under section 437B. It provides that, for the first report due by the next 31 October after commencement, the notice to OGIA only needs to cover the period from the commencement date of the section until the following 30 September. This ensures tenure holders are only required to report on make good obligations for part of the reporting period occurring after commencement to assist with alignment of reporting periods thereafter.

Section 1322 Application of annual levy

This new section of the Water Act provides transitional arrangements that clarify how the annual levy under section 479 applies for the financial year in which the amendments commence and the following (next) financial year. If, before commencement, the annual levy for that financial year has already been calculated in accordance with the existing regulation, that levy amount continues to apply despite the changes introduced by new section 479(4)(a). If the next financial year starts within 6 months of commencement and the levy has not been worked out for the next financial year, then the former section 479(4)(a) applies, i.e. the levy amount would continue to be worked out as per the existing regulation.

The new calculation method under section 479(4)(a) will then apply from the following financial year. This ensures a smooth transition to the amended levy arrangements without disrupting existing calculations for the current year.

Clause 213 Amendment of sch 4 (Dictionary)

This clause amends schedule 4 of the Water Act to insert definitions into the dictionary for terms related to new provisions, these are:

- baseline assessment strategy, which mean a baseline assessment strategy that complies with section 379A. The baseline assessment strategy is specifically for an UWIR for a CMA;
- bore assessment notice, for a water bore, for chapter 3, part 5, division 2, subdivision 4 means a direction notice given by the chief executive to a tenure holder under section 418(2) to undertake a bore assessment, see section 419A; and
- personal information, for chapter 3A, part 3, refers the reader to section 482A. Personal information has the same meaning as under the *Information Privacy Act 2009* and means information or an opinion about an identified individual or an individual who is reasonably identifiable from the information or opinion.

Part 16 Other amendments

Clause 214 Legislation amended

This clause states that schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

Schedule 1 contains several minor, technical and consequential amendments. Part one commences on assent and part two commences on proclamation.