



Queensland

Environmental Protection and Other Legislation Amendment Bill 2010



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2010

A Bill

for

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

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Environmental Protection and Other Legislation Amendment Act 2010*. 4
5

Clause 2 Commencement 6

The following provisions commence on a day to be fixed by proclamation— 7
8

- (a) sections 8 to 18, 21, 24(1), 33 to 41, 52, 54, 55, 57(1), 59, 64, 87, and 127 to 129; 9
10
- (b) section 56, to the extent it inserts sections 196 to 198, 200 and 201; 11
12
- (c) section 57(2), to the extent it inserts the definitions *administrative amendment*, *coastal hazard*, *coastal plan*, *coastal zone map* and *Planning Minister*; 13
14
15
- (d) section 93, to the extent it inserts new section 667. 16

Part 2 Amendment of Aboriginal Cultural Heritage Act 2003 17
18

Clause 3 Act amended 19

This part amends the *Aboriginal Cultural Heritage Act 2003*. 20

Clause 4	Amendment of s 131 (Issue of warrant)	1
	Section 131(2)(a), after ‘that’—	2
	<i>insert</i> —	3
	‘any authorised officer or’.	4
Clause 5	Amendment of s 133 (Warrants—procedure before entry)	5
	Section 133(1)—	6
	<i>omit, insert</i> —	7
	‘(1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this part.’.	8
		9
Clause 6	Amendment of s 138 (Seizing evidence at a place that may only be entered with consent or warrant)	10
	Section 138(1)(b), after ‘consent or’—	11
	<i>insert</i> —	12
	‘under a’.	13
		14
Part 3	Amendment of Coastal Protection and Management Act 1995	15
		16
		17
Clause 7	Act amended	18
	This part amends the <i>Coastal Protection and Management Act 1995</i> .	19
		20
Clause 8	Amendment of s 3 (Main objects of Act)	21
	(1) Section 3(a), ‘the coast’—	22
	<i>omit, insert</i> —	23

[s 9]

‘the coastal zone’.

(2) Section 3(c)—

omit, insert—

‘(c) ensure decisions about land use and development

safeguard life and property from the threat of coastal

hazards; and’.

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

Section 4—

omit, insert—

‘4 How objects of Act are to be achieved

‘The objects of this Act are to be achieved by coordinated and

integrated planning and decision-making, involving, among

other things, the following—

(a) Coastal zone

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

(b) Coastal plan

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

(c) Coastal management districts

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

	(d) Erosion prone areas	1
	• Declaring erosion prone areas in the coastal zone as areas where particular development requirements are applied.	2 3 4
	(e) Use of other legislation	5
	• Using other relevant legislation wherever practicable to achieve the objects of this Act.	6 7
	(f) Monitoring, reporting and review	8
	• Requiring the chief executive to prepare and publish a report on the state of the coastal zone on a regular basis.’	9 10 11
Clause 10	Replacement of s 11 (Meaning of <i>coastal management</i>)	12
	Section 11—	13
	<i>omit, insert—</i>	14
‘11	Meaning of <i>coastal management</i>	15
	‘ <i>Coastal management</i> includes—	16
	(a) the protection, conservation, rehabilitation and management of the coastal zone and coastal resources; and	17 18 19
	(b) the ecologically sustainable development of the coastal zone.’	20 21
Clause 11	Replacement of s 15 (Meaning of <i>coastal zone</i>)	22
	Section 15—	23
	<i>omit, insert—</i>	24
‘15	Meaning of <i>coastal zone</i>	25
	‘The <i>coastal zone</i> means the part of the State comprising the following—	26 27
	(a) Queensland waters and land within the area shown as the coastal zone on the coastal zone map;	28 29

[s 12]

- (b) the airspace above the surface of the area mentioned in paragraph (a); 1
2
- (c) the subsoil below the surface of the area mentioned in paragraph (a).’ 3
4

Clause 12 Insertion of new ch 1, pt 3A 5

Chapter 1— 6

insert— 7

‘Part 3A Coastal zone map 8

‘18A What is the *coastal zone map* 9

‘(1) The *coastal zone map* is a map certified by the chief executive showing the coastal zone. 10
11

‘(2) The coastal zone may include only— 12

(a) coastal waters; and 13

(b) land and Queensland waters landward of coastal waters and seaward of the coastal zone inner limit. 14
15

‘(3) For subsection (2), the *coastal zone inner limit* is, subject to subsection (4), the imaginary line every point of which represents the most landward of the following points— 16
17
18

(a) the point that is 5km landward of the high-water mark; 19

(b) the point nearest the high-water mark where land reaches the height of 10m Australian Height Datum. 20
21

‘(4) If the imaginary line mentioned in subsection (3) intersects a lot, the line may follow either the seaward or landward boundary of the lot instead of following the imaginary line. 22
23
24

‘18B Amending the coastal zone map 25

‘The chief executive may amend a coastal zone map (the *old map*) by— 26
27

-
- (a) replacing the map; and 1
 - (b) certifying a coastal zone map that replaces the old map. 2

‘18C When coastal zone map takes effect 3

- ‘(1) The coastal zone map, or a map replacing a coastal zone map, 4
does not take effect until a regulation approves the map. 5
- ‘(2) The regulation must state the day on which the map was 6
certified by the chief executive. 7
- ‘(3) A reference to a coastal zone map is taken to include any 8
replacement under subsection (1) that has taken effect. 9

‘18D Public inspection and purchase of coastal zone map 10

- ‘(1) The chief executive must keep the coastal zone map available 11
for inspection by the public during office hours on business 12
days at— 13
 - (a) the head office and each regional office of the 14
department; and 15
 - (b) at other places the chief executive considers appropriate. 16
- ‘(2) On payment of a fee decided by the chief executive, a person 17
may buy a copy of the coastal zone map. 18
- ‘(3) The fee for a copy of the coastal zone map must not be more 19
than the reasonable cost of publishing the map. 20
- ‘(4) The chief executive must publish the digital electronic form of 21
the coastal zone map on the department’s website. 22

Editor’s note— 23

At the commencement of this section, the department’s website was at 24
<www.derm.qld.gov.au>.’. 25

Clause 13 Replacement of ch 2, pts 1 and 2 26

Chapter 2, parts 1 and 2— 27

omit, insert— 28

[s 13]

‘Part 1	Coastal plan	1
‘Division 1	Requirement for coastal plan	2
‘20	Coastal plan must be prepared	3
	‘The Minister must prepare a coastal plan for the coastal zone.	4
‘21	Content of coastal plan	5
‘(1)	The coastal plan must describe how the coastal zone is to be managed.	6 7
‘(2)	In preparing the coastal plan, the Minister must consider—	8
	(a) public access to the foreshore; and	9
	(b) the effect of climate change on coastal management.	10
‘(3)	The coastal plan may include 1 or more of the following—	11
	(a) a coastal State planning instrument;	12
	(b) a map or series of maps showing coastal resource information;	13 14
	(c) requirements about coastal resources and land management in the coastal zone.	15 16
‘(4)	In this section—	17
	<i>coastal State planning instrument</i> means a State planning instrument under the Planning Act that—	18 19
	(a) is jointly made by—	20
	(i) the Minister; and	21
	(ii) the Planning Minister; and	22
	(b) provides for—	23
	(i) the protection, conservation and ecologically sustainable development of the coastal zone; and	24 25

	(ii) the making of decisions about land use and development that safeguard life and property from the threat of coastal hazards.	1 2 3
'22	Process for making, amending or replacing coastal plan	4 5
	'(1) The process stated in divisions 2 and 3 must be followed for making, amending or replacing the coastal plan.	6 7
	'(2) A regulation may state an additional requirement to be followed for making, amending or replacing the coastal plan.	8 9
	'(3) If a regulation under subsection (2) states an additional requirement, the requirement must be complied with.	10 11
'23	Compliance with divs 2 and 3 and regulation under s 22(2)	12 13
	'Despite divisions 2 and 3 and any regulation made under section 22(2), if a coastal plan is made, amended or replaced in substantial compliance with the process stated in the divisions and regulation, the coastal plan, amendment or replacement is valid so long as any noncompliance has not—	14 15 16 17 18
	(a) adversely affected the awareness of the public of the existence and nature of the proposed coastal plan, amendment or replacement; or	19 20 21
	(b) restricted the opportunity of the public to make properly made submissions about the proposed coastal plan, amendment or replacement under the process stated in the divisions and regulation.	22 23 24 25
'Division 2	Making coastal plan	26
'24	Preparation of draft coastal plan	27
	'Before making the coastal plan, the Minister must prepare a draft of the plan.	28 29

[s 13]

‘25	Notice about draft coastal plan	1
‘(1)	The Minister must publish a notice about a draft coastal plan prepared under section 24 in—	2 3
	(a) the gazette; and	4
	(b) a newspaper circulating generally in Queensland.	5
‘(2)	The notice must state the following—	6
	(a) that the draft plan is available for inspection and purchase;	7 8
	(b) where copies of the draft plan may be inspected and purchased, including, for example, the department’s website;	9 10 11
	(c) a contact telephone number for information about the draft plan;	12 13
	(d) that written submissions about any aspect of the draft plan may be given by any person to the Minister;	14 15
	(e) the period (the <i>consultation period</i>) during which the submissions may be made;	16 17
	(f) the requirements for a properly made submission.	18
‘(3)	The consultation period must be at least 40 business days after the day the notice is gazetted.	19 20
‘(4)	The Minister must give a copy of the notice and draft plan to—	21 22
	(a) the Planning Minister; and	23
	(b) each local government, port authority and port operator within the area covered by the draft plan; and	24 25
	(c) any other group or person the Minister considers appropriate.	26 27
‘(5)	A local government, port authority or port operator receiving a copy of the draft plan must make the copy available for inspection by the public.	28 29 30

'26	Keeping draft coastal plan available for inspection	1
'(1)	For the duration of the consultation period, the Minister must—	2 3
(a)	keep the draft coastal plan available for inspection by members of the public during office hours on business days at—	4 5 6
(i)	the head office and each regional office of the department; and	7 8
(ii)	other places the chief executive considers appropriate; and	9 10
(b)	publish a copy of the draft plan on the department's website.	11 12
	<i>Editor's note—</i>	13
	At the commencement of this section, the department's website was at <www.derm.qld.gov.au>.	14 15
'(2)	On payment of a fee decided by the chief executive, a person may buy a copy of the draft plan.	16 17
'(3)	The fee for a copy of the draft plan must not be more than the reasonable cost of publishing the copy.	18 19
'27	Making coastal plan	20
'(1)	The Minister must consider each properly made submission about the draft coastal plan.	21 22
'(2)	After considering each submission, the Minister may—	23
(a)	make the coastal plan as provided for in the draft plan; or	24 25
(b)	make the coastal plan as provided for in the draft plan with amendments the Minister considers appropriate.	26 27

[s 13]

‘28	Notice about making coastal plan	1
‘(1)	After the coastal plan is made, the Minister must publish a notice about its making in the gazette and in a newspaper circulating generally in the State.	2 3 4
‘(2)	The notice must state—	5
	(a) the day the plan was made; and	6
	(b) where a copy of the plan may be inspected or purchased.	7
‘(3)	The Minister must give a copy of the plan to—	8
	(a) the Planning Minister; and	9
	(b) each local government, port authority and port operator within the area covered by the plan; and	10 11
	(c) any other group or person the Minister considers appropriate.	12 13
‘Division 3	Amending or replacing coastal plan	14
‘29	Administrative amendments	15
‘(1)	The Minister may make an administrative amendment of the coastal plan.	16 17
‘(2)	After the coastal plan is amended under subsection (1), the Minister must publish a notice about the amendment—	18 19
	(a) in the gazette; and	20
	(b) in a newspaper circulating generally—	21
	(i) if the amendment has effect throughout the State or is made for the whole of the State—in the State; or	22 23
	(ii) if the amendment has effect only in a part of the State—in that part.	24 25
‘(3)	The notice must state—	26
	(a) the day the amendment was made; and	27

(b)	where a copy of the coastal plan, as amended, may be inspected or purchased.	1 2
‘(4)	Division 2 does not apply to the making of an amendment under this section.	3 4
‘30	Other amendments	5
‘(1)	The Minister may make an amendment, other than an administrative amendment, of the coastal plan only if the process under division 2 for making the coastal plan has been followed subject to subsections (2) and (3).	6 7 8 9
‘(2)	For subsection (1), division 2 applies—	10
(a)	as if a reference in the division to the coastal plan were a reference to an amendment of the coastal plan; and	11 12
(b)	as if a reference in the division to a draft coastal plan were a reference to a draft amendment of the coastal plan; and	13 14 15
(c)	as if the reference in section 25(3) to 40 business days were a reference to 20 business days; and	16 17
(d)	with other necessary changes.	18
‘(3)	When acting under division 2, the Minister also may decide not to proceed with the amendment of the coastal plan.	19 20
‘31	Replacement of coastal plan	21
	‘The Minister may, by following the process under division 2 for making a coastal plan, replace the existing coastal plan with a new plan.	22 23 24

[s 13]

‘Division 4	When coastal plan or amendment has effect	1 2
‘32	When coastal plan or amendment has effect	3
‘(1)	The coastal plan or an amendment of the coastal plan takes effect on—	4 5
(a)	the day the notice about the making of the plan or amendment is gazetted under section 28 or 29; or	6 7
(b)	if a later day for the commencement of the plan or amendment is stated in the notice, plan or amendment—the later day.	8 9 10
‘(2)	If the coastal plan states that it replaces the existing coastal plan, it replaces the existing plan on and from the day the replacement plan takes effect under subsection (1).	11 12 13
‘33	Duration of coastal plan	14
‘(1)	The coastal plan ceases to have effect on—	15
(a)	the day the coastal plan is replaced under division 3; or	16
(b)	otherwise—the day that is 10 years after the day the coastal plan had effect.	17 18
‘(2)	Despite subsection (1)(b), if a day for the ending of the coastal plan is prescribed under a regulation made before the period mentioned in subsection (1)(b) ends, the coastal plan ends on the prescribed day.	19 20 21 22
‘(3)	The prescribed day must not be more than 12 years after the day the coastal plan had effect.	23 24
‘Division 5	Miscellaneous	25
‘34	Implementation of coastal plan	26
‘(1)	The chief executive must implement the coastal plan.	27

‘(2)	However, the chief executive may arrange for a department, local government, port authority, port operator or statutory authority (a <i>relevant entity</i>) to carry out particular activities necessary to implement the coastal plan.	1 2 3 4
‘(3)	Without limiting subsection (2), the chief executive may—	5
(a)	ask a relevant entity to take coastal management into account when making decisions about land use or development for land in the coastal zone; and	6 7 8
(b)	ask a relevant entity responsible for managing land in the coastal zone to manage the land in a way that is consistent with coastal management; and	9 10 11
(c)	ask a relevant entity to carry out an activity in the coastal zone involving—	12 13
(i)	the construction or maintenance of works; or	14
(ii)	the extraction of material; or	15
(ii)	the disposal of extracted material.	16
‘35	Effect of coastal plan	17
	‘The coastal plan is a statutory instrument under the <i>Statutory Instruments Act 1992</i> .	18 19
‘36	Public inspection and purchase of coastal plan or draft coastal plan	20 21
‘(1)	After the coastal plan is made, the chief executive must publish a copy of the coastal plan on the department’s website.	22 23 24
	<i>Editor’s note—</i>	25
	At the commencement of this section, the department’s website was at < www.derm.qld.gov.au >.	26 27
‘(2)	Also, the chief executive must keep the coastal plan, and the draft of the coastal plan prepared under section 24, available for inspection by the public during office hours on business days at—	28 29 30 31

[s 14]

- (a) the head office and each regional office of the department; and 1
2
- (b) other places the chief executive considers appropriate. 3
- ‘(3) On payment of a fee decided by the chief executive, a person may buy a copy of the coastal plan or draft coastal plan. 4
5
- ‘(4) The fee for a copy of the coastal plan or draft coastal plan must not be more than the reasonable cost of publishing the copy.’. 6
7
8

Clause 14	Amendment of s 54 (Declaration of coastal management districts)	9 10
	Section 54(1)—	11
	<i>omit, insert—</i>	12
	‘(1) An area within the coastal zone may, under a regulation, be declared as a coastal management district if the Minister considers the area requires protection or management.’.	13 14 15

Clause 15	Omission of s 55 (Where coastal management districts may be declared)	16 17
	Section 55—	18
	<i>omit.</i>	19

Clause 16	Amendment of s 56 (Things to be considered when declaring coastal management districts)	20 21
	(1) Section 56(d), ‘natural hazards’—	22
	<i>omit, insert—</i>	23
	‘coastal hazards’.	24
	(2) Section 56—	25
	<i>insert—</i>	26
	‘(h) the need to conserve, protect or rehabilitate coastal ecological systems or geomorphic features of the area.’.	27 28

Clause 17	Amendment of s 57 (Notice declaring, changing or abolishing coastal management district)	1
	Section 57(1), ‘section 54(1)(b)’—	2
	<i>omit, insert</i> —	3
	‘section 54(1)’.	4
Clause 18	Amendment of s 58 (Amendment, amalgamation and abolition of coastal management districts)	5
	Section 58(1), ‘section 54(1)(b)’—	6
	<i>omit, insert</i> —	7
	‘section 54(1)’.	8
Clause 19	Amendment of s 59 (Coastal protection notices)	9
	Section 59(2)(b)—	10
	<i>omit, insert</i> —	11
	‘(b) to stop, or not start, an activity stated in the notice, if the chief executive is satisfied the activity is causing, or is likely to cause—	12
	(i) an adverse effect on coastal resources; or	13
	(ii) wind erosion.’.	14
Clause 20	Amendment of s 60 (Tidal works notices)	15
	(1) Section 60(2) to (5)—	16
	<i>renumber</i> as section 60(5) to (8).	17
	(2) Section 60(1)—	18
	<i>omit, insert</i> —	19
	‘(1) Subsection (2) applies if, in the chief executive’s opinion, tidal works (the <i>relevant works</i>) need repair, are abandoned or should be removed to—	20
	(a) protect public safety; or	21

[s 21]

(b) prevent adverse effects on coastal resources. 1

‘(2) The chief executive may give a notice (a *tidal works notice*) to 2
the person responsible for the relevant works. 3

‘(3) Subsection (4) applies if, in the chief executive’s opinion, 4
a structure mentioned in section 124(1) or (3) needs repair, is 5
abandoned or should be removed to— 6

(a) protect public safety; or 7

(b) prevent adverse effects on coastal resources. 8

‘(4) The chief executive may give a notice (also a *tidal works 9
notice*) to a person who must ensure the structure is 10
maintained in a safe condition under section 124(2) or (4).’ 11

(3) Section 60(6)(a), as renumbered, ‘the tidal works’— 12
omit, insert— 13

‘the relevant works or structure’. 14

(4) Section 60(6)(b), as renumbered, ‘the tidal works’— 15
omit, insert— 16

‘the relevant works or structure.’. 17

(5) Section 60(8), as renumbered, ‘subsection (5)’— 18
omit, insert— 19

‘subsection (8)’. 20

Clause 21 Amendment of s 68 (Temporary occupation of land) 21

Section 68(1), ‘a coastal plan’— 22

omit, insert— 23

‘the coastal plan’. 24

Clause 22 Amendment of s 69 (Damaging vegetation) 25

(1) Section 69, heading— 26

omit, insert— 27

'69	Damaging or removing vegetation, or damaging coastal dunes'.	1 2
(2)	Section 69(1), 'vegetation on State coastal land'— <i>omit, insert—</i> 'or remove vegetation on, or damage a dune forming part of, State coastal land above the high-water mark'.	3 4 5 6
(3)	Section 69(2), definition <i>damage</i> — <i>omit, insert—</i> ' damage , to vegetation or a dune, does not include minor damage to the vegetation or dune that happens in the course of the ordinary use of the land on which the vegetation is situated or of which the dune forms a part.'	7 8 9 10 11 12
Clause 23	Amendment of s 73 (Applications for allocation of quarry material)	13 14
	Section 73(1), 'below high-water mark'— <i>omit, insert—</i> 'in tidal water'.	15 16 17
Clause 24	Amendment of s 75 (Criteria for deciding applications)	18
(1)	Section 75(1)(a)— <i>omit, insert—</i> '(a) the coastal plan; and'.	19 20 21
(2)	Section 75(3)(a)— <i>omit, insert—</i> '(a) fair and equitable access to, and the need to ensure the economic use of, State resources; and'.	22 23 24 25
(3)	Section 75(3)(d)— <i>omit, insert—</i>	26 27

[s 25]

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

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

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

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

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

(a) the impact the removal of the quarry material or
placement of spoil may have on coastal management;
and

(b) the matters mentioned in section 75.’.

Clause 26 Amendment of s 78 (Content of allocation notices)

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

Clause 27 Amendment of s 79 (Conditions of allocation notice)

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

(2) Section 79—

-
- insert—* 1
- ‘(d) when the royalty, or price payable, for the removal of 2
the quarry material must be paid; and 3
- (e) giving the chief executive information about the rate at 4
which the quarry material is removed during stated 5
intervals.’. 6

- Clause 28 Amendment of s 80 (Allocation holder to give 7
information) 8**
- Section 80(2)— 9
- omit, insert—* 10
- ‘(2) The holder must— 11
- (a) if the allocation notice states a condition about the time 12
within which, and the period for which, the holder must 13
give written notice to the chief executive about the 14
quantity of quarry material removed by the holder under 15
the allocation in the period—give the chief executive a 16
written notice in compliance with the condition; or 17
- (b) otherwise—within 20 business days after the end of a 18
quarter, give the chief executive a written notice stating 19
the quantity of quarry material removed by the holder 20
under the allocation in the quarter. 21
- Maximum penalty—50 penalty units. 22
- ‘(3) In this section— 23
- quarter* means a 3-month period ending on 31 March, 30 24
June, 30 September or 31 December.’. 25

- Clause 29 Amendment of s 82 (Transferring allocations) 26**
- (1) Section 82, heading— 27
- omit, insert—* 28
- ‘82 Application to transfer allocation’.** 29
- (2) Section 82(3) to (7)— 30

[s 30]

omit, insert—

- 1
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- ‘(3) The chief executive may, by written notice, ask the applicant to give the chief executive further information or documents about the application by the reasonable date stated in the notice.
- ‘(4) If the applicant does not give the chief executive the further information or documents by the stated day, the application lapses.’.

Clause 30 Insertion of new s 82A

After section 82—

insert—

‘82A Deciding application to transfer allocation

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

-
- (a) give the applicant and the proposed transferee written notice of the decision; and 1
2
- (b) if the transfer is approved— 3
- (i) give the transferee a new allocation in accordance with the approval; and 4
5
- (ii) if the transfer is of only a part of an allocation—give the applicant an amended allocation notice for the part not transferred. 6
7
8
- ‘(5) A transfer of an allocation has effect from the day written notice of the approval of the transfer is given under subsection (4). 9
10
11
- ‘(6) In this section— 12
- coastal management* does not include coastal management in relation to Aboriginal cultural heritage or Torres Strait Islander cultural heritage.’. 13
14
15

Clause 31 Amendment of s 83 (Renewing allocations) 16

- (1) Section 83, heading— 17
- omit, insert— 18*

‘83 Application to renew allocation 19

- (2) Section 83(3) to (7)— 20
- omit, insert— 21*
- ‘(3) The chief executive may, by written notice, ask the applicant to give the chief executive further information or documents about the application by the reasonable date stated in the notice. 22
23
24
25
- ‘(4) If the applicant does not give the chief executive the further information or documents by the stated day, the application lapses.’. 26
27
28

Clause 32 Insertion of new s 83A 29

- After section 83— 30

[s 32]

<i>insert—</i>	1
‘83A Deciding application to renew allocation	2
‘(1) The chief executive must decide an application to renew an allocation notice made under section 83 within 30 days after receiving—	3 4 5
(a) if further information or documents are requested under section 83(3)—the further information or documents; or	6 7
(b) otherwise—the application.	8
‘(2) The chief executive must decide to—	9
(a) approve the renewal as applied for, with or without conditions; or	10 11
(b) approve the renewal, as varied by the chief executive, with or without conditions; or	12 13
(c) refuse to grant the application.	14
‘(3) In making a decision under subsection (2), the chief executive must consider—	15 16
(a) the impact the renewal may have on coastal management; and	17 18
(b) the matters mentioned in section 75.	19
‘(4) Within 30 business days after deciding the application, the chief executive must give the applicant—	20 21
(a) a written notice stating—	22
(i) the decision; and	23
(ii) if the chief executive approves the renewal as varied or with conditions, or refuses to grant the application—the reasons for the decision; and	24 25 26
(b) if the renewal is approved—a new allocation notice in accordance with the approval.	27 28
‘(5) This division applies, with all necessary changes, to the application as if it were an application for an allocation.	29 30
‘(6) In this section—	31

coastal management does not include coastal management in relation to Aboriginal cultural heritage or Torres Strait Islander cultural heritage.’ 1
2
3

Clause 33 Omission of ch 2, pt 5, div 2 4
Chapter 2, part 5, division 2— 5
omit. 6

Clause 34 Renumbering of ch 2, pt 5, div 2A 7
Chapter 2, part 5, division 2A— 8
renumber as chapter 2, part 5, division 2. 9

Clause 35 Amendment of s 100A (Removal of quarry material is subject to other approvals) 10
11
(1) Section 100A(1), (4) and (5), ‘or an approved dredge management plan’— 12
13
omit. 14
(2) Section 100A(1), (2) and (5)(b), ‘or plan’— 15
omit. 16
(3) Section 100A(3), ‘below high-water mark’— 17
omit, insert— 18
‘in tidal water’. 19
(4) Section 100A(6)— 20
omit. 21
(5) Section 100A(7)— 22
renumber as subsection 100A(6). 23

[s 36]

Clause 36	Omission of s 100B (Relationship with Planning Act)	1
	Section 100B—	2
	<i>omit.</i>	3
Clause 37	Amendment of s 101 (Removing quarry material)	4
	Section 101(1) and (2)—	5
	<i>omit, insert—</i>	6
	‘(1) A person must not, without reasonable excuse, remove quarry material from tidal water unless the person is the holder of an allocation notice for the material.	7
		8
		9
	Maximum penalty—1665 penalty units.	10
	‘(2) A person must not, without reasonable excuse, contravene a condition of an allocation notice.	11
		12
	Maximum penalty—1665 penalty units.’.	13
Clause 38	Amendment of s 102 (Royalty or price for quarry material)	14
	Section 102(1), ‘or a dredge management plan’—	15
	<i>omit.</i>	16
Clause 39	Insertion of new s 104B	17
	After section 104A—	18
	<i>insert—</i>	19
	‘104B Applications for operational works involving removal of quarry material	20
		21
	‘(1) This section applies to a person if—	22
	(a) the person makes a development application for operational work that is tidal works; and	23
		24
	(b) the operational work involves the removal of quarry material from tidal water.	25
		26
	‘(2) The following apply—	27

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

Clause 40	Omission of s 105 (Declaration for Planning Act, ss 282, 313 and 314)	12
	Section 105—	13
	<i>omit.</i>	14
Clause 41	Omission of s 108 (Development approvals—conditions for development partly in a coastal management district)	15
	Section 108—	16
	<i>omit.</i>	17
Clause 42	Amendment of ch 2, pt 6, div 3, hdg (Land surrender conditions)	18
	Chapter 2, part 6, division 3, heading, ‘conditions’—	19
	<i>omit.</i>	20
Clause 43	Amendment of ch 2, pt 6, div 3, sdiv 2, hdg (Land surrender)	21
	Chapter 2, part 6, division 3, subdivision 2, heading, after ‘surrender’—	22
		23
		24
		25
		26
		27

[s 44]

insert— 1
‘conditions’. 2

Clause 44 Amendment of s 110 (Governor in Council may approve inclusion of land surrender condition) 3
4
Section 110, ‘Governor in Council’— 5
omit, insert— 6
‘Minister’. 7

Clause 45 Amendment of s 111 (Notice of condition about land surrender) 8
9
Section 111(3), ‘received by’— 10
omit, insert— 11
‘given to’. 12

Clause 46 Amendment of s 113 (Notice of decision about land surrender) 13
14
Section 113(2)(b)(i), ‘Governor in Council’— 15
omit, insert— 16
‘Minister’. 17

Clause 47 Insertion of new ch 2, pt 6, div 3, sdivs 3 and 4 18
Chapter 2, part 6, division 3— 19
insert— 20

‘Subdivision 3 Voluntary land surrender 21

‘115A Applicant may surrender land voluntarily 22

‘(1) The applicant for the development application may surrender 23
a part of the lot in the coastal management district to the State 24

for coastal management without the imposition of a land 1
surrender condition under subdivision 2. 2

Note— 3

See section 115B for how a part of a lot is surrendered to the State under 4
this section. 5

‘(2) To remove any doubt, it is declared that subdivision 2 does not 6
apply to a part of a lot surrendered under subsection (1). 7

‘Subdivision 4 Giving effect to surrender 8

‘115B Surrendered land to be dedicated for coastal 9 management purposes 10

‘(1) This section applies to the surrender of a part of the lot in the 11
coastal management district to the State under a land 12
surrender condition or under section 115A. 13

‘(2) The plan of subdivision under the *Land Title Act 1994* giving 14
effect to the surrender must dedicate the surrendered land for 15
coastal management. 16

‘(3) On registration of the plan of subdivision, without anything 17
further, the surrendered land is dedicated as a reserve under 18
the *Land Act 1994* for coastal management. 19

‘(4) Subsection (3) applies despite the *Land Title Act 1994*, section 20
51. 21

‘(5) For the *Land Act 1994*, the trustee of the reserve is— 22

(a) if the local government for the area in which the 23
surrendered land is situated has endorsed the plan of 24
subdivision with its acceptance of the trusteeship of the 25
reserve—the local government; or 26

(b) otherwise—the State. 27

‘(6) The registrar under the *Land Act 1994* must record the 28
following particulars about the reserve in the register kept 29
under section 276(b) of that Act— 30

[s 48]

- (a) the particulars of the dedication of the reserve under this section; 1
2
- (b) the name of the trustee.’. 3

Clause 48 Amendment of s 120C (Chief executive may give exemption certificate without application) 4
5

Section 120C, after ‘section 120A(1)’— 6
insert— 7
‘, with or without conditions’. 8

Clause 49 Insertion of new s 120CA 9

Part 6, division 5, after section 120C— 10
insert— 11

‘120CA Holder of exemption certificate must comply with condition 12
13

‘The holder of an exemption certificate must not, without a reasonable excuse, contravene a condition of the certificate. 14
15
Maximum penalty—165 penalty units.’. 16

Clause 50 Replacement of ss 123 and 124 17

Sections 123 and 124— 18
omit, insert— 19

‘123 Right to occupy and use land on which particular tidal works were, or are to be, carried out 20
21

- ‘(1) This section applies if a development permit has been, or is, granted for operational work that is tidal works that— 22
23
 - (a) were, or are to be, carried out wholly or partly on State tidal land; and 24
25
 - (b) were, or are to be— 26

-
- (i) carried out by, for or under the authority of the owner or occupier of land adjacent to the State tidal land; or
Example of tidal works for subparagraph (i)—
the construction of a private jetty, mooring pile, pontoon or domestic pipeline
- (ii) carried out by or for a public utility provider for the purpose of providing a public utility service.
Example of tidal works for subparagraph (ii)—
the construction of infrastructure across a waterway for providing electricity, gas or telecommunication services
- ‘(2) Also, this section applies if a development permit has been, or is, granted for operational work that is tidal works carried out wholly or partly on State tidal land that are works for the construction of public infrastructure.
- ‘(3) However, this section does not apply for a development permit granted for operational work that is tidal works mentioned in subsection (1)(b)(i) if the tidal works include the construction of a structure that facilitates, or will facilitate, a commercial enterprise.
- ‘(4) A relevant person for the tidal works, and any person authorised by the relevant person, has a right to occupy and use the State tidal land for each of the following—
- (a) carrying out the tidal works in accordance with the development permit;
- (b) if the tidal works include the construction of a structure—maintaining and using the structure.
- ‘(5) In this section—
- public infrastructure*** means infrastructure that is constructed or operated for the general public.
- public utility provider*** means—
- (a) the State or another entity representing the State; or
- (b) the Commonwealth or another entity representing the Commonwealth; or

[s 50]

(c)	a local government; or	1
(d)	a person authorised by law to provide a public utility service; or	2 3
(e)	a mill owner under the <i>Sugar Industry Act 1999</i> .	4
	relevant person , for tidal works, means—	5
(a)	for tidal works carried out by, for or under the authority of the owner of freehold land adjacent to State tidal land—the owner of the freehold land at the relevant time; or	6 7 8 9
(b)	for tidal works carried out by, for or under the authority of the occupier of land, other than freehold land, adjacent to State tidal land—the occupier of the land at the relevant time; or	10 11 12 13
(c)	for tidal works carried out by or for a public utility provider—the public utility provider; or	14 15
(d)	for tidal works that included the construction of a structure, anyone else, including, for example, a local government acting as a trustee, who is responsible—	16 17 18
	(i) under any law or agreement to ensure the structure is in a safe condition; or	19 20
	(ii) for any wrong arising out of a failure to ensure the structure is in a safe condition.	21 22
‘124	Obligation to keep particular structure in safe condition	23 24
‘(1)	Subsection (2) applies to tidal works that included the construction of a structure if a relevant person, and any person authorised by the relevant person, has a right to occupy and use State tidal land for maintaining and using the structure under section 123(4).	25 26 27 28 29
‘(2)	A relevant person for the tidal works must ensure the structure is maintained in a safe condition.	30 31
‘(3)	Subsection (4) applies to a structure for which there is a sanction or authorisation mentioned in section 171 that, under	32 33

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

- ‘(4) The following persons must ensure the structure is maintained in a safe condition—
- (a) a person who is an owner of freehold land, or a lessee of land leased from the State, if the land—
 - (i) is above high-water mark; and
 - (ii) is connected to, or receives the benefit of, the structure;
 - (b) anyone else, including, for example, a local government acting as a trustee, who is responsible—
 - (i) under any law or agreement to ensure the structure is in a safe condition; or
 - (ii) for any wrong arising out of a failure to ensure the structure is in a safe condition.
- ‘(5) Subsection (2) or (4) does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.
- ‘(6) Without limiting subsection (5), compliance with subsection (2) or (4) does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.
- ‘(7) Also, a breach of an obligation under subsection (2) or (4) does not, of itself, give rise to an action for breach of statutory duty or another civil right or remedy.
- Note—*
- For the consequences of a failure to comply with the obligation under subsection (2) or (4), see part 3, division 2.
- ‘(8) In this section—
relevant person see section 123(5).’.

[s 51]

Clause 51	Amendment of s 144 (Indictable and summary offences)	1
	Section 144(1), ‘60(5)’—	2
	<i>omit, insert</i> —	3
	‘60(8)’.	4
Clause 52	Amendment of s 150 (When compensation is payable)	5
	Section 150(1), ‘a coastal plan’—	6
	<i>omit, insert</i> —	7
	‘the coastal plan’.	8
Clause 53	Amendment of s 160 (How to start appeal)	9
	Section 160(2)(a)(i), ‘and 60(2)’—	10
	<i>omit, insert</i> —	11
	‘or 60(2) or (4)’.	12
Clause 54	Amendment of s 165 (Delegation by chief executive)	13
	Section 165(3)—	14
	<i>omit.</i>	15
Clause 55	Amendment of s 167 (Regulation-making power)	16
	(1) Section 167(2)(h), from ‘coastal plans’ to ‘a coastal plan’—	17
	<i>omit, insert</i> —	18
	‘the coastal plan, including, for example, giving a notice about a contravention of the coastal plan’.	19 20
	(2) Section 167(2)(i), ‘a coastal plan’—	21
	<i>omit, insert</i> —	22
	‘the coastal plan’.	23

Clause 56	Insertion of new ch 6, pt 6	1
	Chapter 6—	2
	<i>insert</i> —	3
‘Part 6	Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2010	4 5 6 7
‘195	Definition for pt 6	8
	‘In this part—	9
	<i>previous</i> , if followed by a provision number, means the provision of that number in force before the commencement of this section.	10 11 12
‘196	Continuation of coastal zone	13
	‘The coastal zone under previous section 15 continues until the day a coastal zone map takes effect under section 18C.	14 15
‘197	Continuation of existing coastal plans	16
	‘(1) Each coastal plan (an <i>existing coastal plan</i>) made under previous chapter 2, part 2 in force immediately before the day this section commences continues in effect until the day a coastal plan takes effect under section 32(1).	17 18 19 20
	‘(2) Until the day the coastal plan takes effect, a reference to the coastal plan in a document or the provisions of this Act mentioned in subsection (3) is taken, wherever possible, to be a reference to an existing coastal plan.	21 22 23 24
	‘(3) For subsection (2), the provisions are sections 68, 75, 150 and 167.	25 26

[s 56]

‘198	Dissolution of coastal protection advisory council	1
	‘On the day this section commences—	2
	(a) the coastal protection advisory council established under previous section 20 is dissolved; and	3 4
	(b) any person who, immediately before the day this section commences, held office as a member of the coastal protection advisory council under previous section 22 goes out of office on the day this section commences and is not entitled to compensation because of the operation of this section.	5 6 7 8 9 10
‘199	Application of s 80 for existing allocations for quarry material	11 12
	‘(1) This section applies to the holder of an allocation notice for quarry material if, immediately before the day this section commences, previous section 80 applied to the holder.	13 14 15
	‘(2) Despite section 80(2)(b), previous section 80(2) continues to apply to the holder of the notice until the beginning of the quarter first happening after the day this section commences.	16 17 18
	‘(3) In this section—	19
	<i>quarter</i> means a 3-month period ending on 31 March, 30 June, 30 September or 31 December.	20 21
‘200	Existing dredge management plan applications	22
	‘(1) This section applies if an application for approval of a dredge management plan made under previous section 91 has not been decided before the day this section commences.	23 24 25
	‘(2) The application must be decided under previous chapter 2, part 5, division 2, subdivision 2.	26 27
	‘(3) If the application is approved, previous chapter 2, part 5, divisions 2 and 2A continue to apply in relation to the approved dredge management plan as if the <i>Environmental Protection and Other Legislation Amendment Act 2010</i> had not commenced.	28 29 30 31 32

'201 Existing approved dredge management plans	1
'(1) This section applies to a dredge management plan approved under previous section 93 if the plan was in effect immediately before the day this section commences.	2 3 4
'(2) The dredge management plan continues in effect until it is cancelled, suspended or otherwise ended.	5 6
'(3) Previous chapter 2, part 5, divisions 2 and 2A continue to apply in relation to the dredge management plan as if the <i>Environmental Protection and Other Legislation Amendment Act 2010</i> had not commenced.	7 8 9 10
'(4) To remove any doubt, it is declared that subsection (3) applies if, immediately before the day this section commences—	11 12
(a) the holder of an approved dredge management plan had applied for a transfer of the plan under previous section 95 or a renewal of the plan under previous section 96, and before the day this section commences the application has not been decided; or	13 14 15 16 17
(b) the chief executive had started a procedure to amend, suspend or cancel an approval of a dredge management plan under previous section 99, and before the day this section commences a proposed action under previous section 99 has not been taken.	18 19 20 21 22
'202 Continuing effect of Governor in Council approval of land surrender condition	23 24
'(1) This section applies if, before the day this section commences, the Governor in Council has approved the inclusion of a land surrender condition under previous section 110(2)(c).	25 26 27
'(2) The approval continues to have effect as if it were an approval by the Minister under section 110(2)(c).	28 29
'(3) If a notice has not been given under previous section 113 in relation to the condition before the day this section commences, previous section 113 continues to apply for the giving of the notice as if the <i>Environmental Protection and Other Legislation Amendment Act 2010</i> had not commenced.'	30 31 32 33 34

[s 57]

Clause 57	Amendment of schedule (Dictionary)	1
(1)	Schedule, definitions <i>advisory council</i> , <i>coastal plan</i> , <i>key coastal site</i> , <i>regional plan</i> and <i>State plan</i> —	2
	<i>omit.</i>	3
		4
(2)	Schedule—	5
	<i>insert</i> —	6
	<i>'administrative amendment</i> , of a coastal plan, means an amendment correcting or changing—	7
		8
(a)	an explanatory matter about the plan; or	9
(b)	the format or presentation of the plan; or	10
(c)	a spelling, grammatical or mapping error in the plan; or	11
(d)	a factual matter incorrectly stated in the plan; or	12
(e)	a redundant or outdated term in the plan; or	13
(f)	inconsistent numbering of provisions in the plan; or	14
(g)	a cross-reference in the plan.	15
	<i>coastal hazard</i> means erosion of the foreshore or tidal inundation.	16
		17
	<i>coastal plan</i> means the coastal plan made under chapter 2, part 1.	18
		19
	<i>coastal zone map</i> see section 18A.	20
	<i>Planning Minister</i> means the Minister administering the Planning Act.	21
		22
	<i>previous</i> , for chapter 6, part 6, see section 195.	23
	<i>State tidal land</i> means land in the coastal zone other than the following—	24
		25
(a)	land for which a lease under the <i>Land Act 1994</i> is granted;	26
		27
(b)	land for which a permit to occupy is issued under the <i>Land Act 1994</i> ;	28
		29
(c)	freehold land, including inundated land;	30

[s 60]

Clause 60	Amendment of s 51 (Public notification)	1
	Section 51(2)(b), ‘publish’—	2
	<i>omit, insert—</i>	3
	‘after giving the EIS notice under paragraph (a), publish’.	4
Clause 61	Amendment of s 73D (Application for registration to carry out chapter 4 activity)	5
	(1) Section 73D(2) and (3)—	6
	<i>renumber</i> as section 73D(3) and (4).	7
	(2) Section 73D—	8
	<i>insert—</i>	9
	‘(2) However, if a chapter 4 activity is assessable development, the person can not apply to be a registered operator to carry out the activity until and unless a development permit for the activity takes effect.’.	10
		11
		12
		13
		14
Clause 62	Amendment of s 73F (Registration certificates)	15
	(1) Section 73F(3)(b)(iii)—	16
	<i>omit, insert—</i>	17
	‘(iii) the activities do not constitute a significant business activity;	18
		19
	(iv) the administering authority is satisfied it would be appropriate, having regard to the level of integration of the activities, to grant a single registration certificate for them.’.	20
		21
		22
		23
	(2) Section 73F(5)(b), ‘section 73D(2)(b)’—	24
	<i>omit, insert—</i>	25
	‘section 73D(3)(b)’.	26
	(3) Section 73F—	27
	<i>insert—</i>	28

‘(9) In this section— 1
significant business activity has the meaning given by the 2
Local Government Act 2009, section 43.’. 3

Clause 63 Amendment of s 73G (When registration certificate takes effect) 4
5
Section 73G(3)— 6
omit. 7

Clause 64 Insertion of new ch 4, pt 5A 8
Chapter 4— 9
insert— 10

‘Part 5A Work diary requirements for particular registered operators 11
12

‘73PA Application of pt 5A 13

‘(1) This part applies to a registered operator carrying out a 14
chapter 4 activity that is a mobile and temporary 15
environmentally relevant activity, unless the activity is 16
regulated waste transport. 17

‘(2) In this section— 18
regulated waste transport means a chapter 4 activity 19
prescribed under a regulation for this section, relating to the 20
transport of waste. 21

‘73PB Requirement to keep work diary 22

‘(1) A registered operator must keep a work diary in the approved 23
form for a mobile and temporary environmentally relevant 24
activity carried out by the operator. 25

Maximum penalty—100 penalty units. 26

[s 64]

- ‘(2) The approved form must provide for the inclusion of the following—
- (a) details of each location at which the mobile and temporary environmentally relevant activity is carried out by the registered operator;
 - (b) the dates on which the activity is carried out by the operator.
- ‘(3) The registered operator must record the information required under the approved form within 1 day after the day the operator vacates each location at which the mobile and temporary environmentally relevant activity is carried out, unless the operator has a reasonable excuse.
- Maximum penalty—100 penalty units.
- ‘(4) The registered operator must keep the work diary for 2 years after the day on which the operator vacates the last location at which the mobile and temporary environmentally relevant activity is carried out, unless the operator has a reasonable excuse.
- Maximum penalty—100 penalty units.

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

- ‘(1) A registered operator who becomes aware that the operator’s work diary has been lost or stolen must, within 7 business days, give the chief executive written notice that the diary has been lost or stolen, unless the operator has a reasonable excuse.
- Maximum penalty—50 penalty units.
- ‘(2) In this section—
- work diary*, of a registered operator, means the work diary the operator keeps under section 73PB.’.

Clause 65	Amendment of s 197 (Summary of pt 6 process)	1
	Section 197, table, entry for stage 5, paragraph (a), item 2, 'MRA Minister'—	2 3
	<i>omit, insert</i> —	4
	'EPA Minister'.	5
Clause 66	Amendment of s 222 (Nature of objections decision)	6
	(1) Section 222(1), 'MRA Minister'—	7
	<i>omit, insert</i> —	8
	'EPA Minister'.	9
	(2) Section 222(3)—	10
	<i>omit, insert</i> —	11
	'(3) The Land Court must, as soon as practicable after the decision is made, give a copy of the decision to each of the following—	12 13
	(a) the MRA Minister;	14
	(b) if a relevant mining lease is, or is included in, a significant project—the State Development Minister.'	15 16
Clause 67	Amendment of s 224 (Advice from MRA and State Development Ministers about objections decision)	17 18
	(1) Section 224(1) to (3)—	19
	<i>omit, insert</i> —	20
	'(1) This section applies if the MRA Minister or State Development Minister is given a copy of the objections decision under section 222(3).	21 22 23
	'(2) The MRA Minister or State Development Minister must advise the EPA Minister about any matter the MRA Minister or State Development Minister considers may help the EPA Minister to make a decision under section 225.	24 25 26 27
	'(3) The advice must be given within the period ending at the later of the following—	28 29

[s 68]

	(a)	10 business days after the copy of the decision is received;	1 2
	(b)	if the Ministers have, within the 10 business days, agreed to a longer period—the longer period.’.	3 4
	(2)	Section 224(4), ‘sought’— <i>omit.</i>	5 6
Clause 68		Amendment of s 225 (EPA Minister’s decision on application)	7 8
		Section 225(2)— <i>omit, insert—</i>	9 10
	‘(2)	The Minister’s decision must be made within the period ending at the later of the following—	11 12
	(a)	10 business days after the last advice by a Minister is received under section 224(2);	13 14
	(b)	20 business days after the objections decision is made.’.	15
Clause 69		Amendment of s 322 (When environmental audit required)	16 17
		Section 322(1)— <i>insert—</i>	18 19
	‘(d)	a person is, or has been, contravening any of the following provisions—	20 21
	(i)	section 363E;	22
	(ii)	section 440Q;	23
	(iii)	section 440ZG;	24
	(iv)	a provision of chapter 8, part 3D, 3E or 3F;’.	25
Clause 70		Replacement of s 330 (What is a transitional environmental program)	26 27
		Section 330—	28

omit, insert—

		1
'330	What is a transitional environmental program	2
	‘A <i>transitional environmental program</i> is a specific program that, when complied with, achieves compliance with this Act for the activity to which it relates by doing 1 or more of the following—	3 4 5 6
	(a) reducing environmental harm caused by the activity;	7
	(b) detailing the transition of the activity to an environmental standard;	8 9
	(c) detailing the transition of the activity to comply with—	10
	(i) a condition, including a standard environmental condition, of an environmental authority or code of environmental compliance; or	11 12 13
	(ii) a development condition.’	14
Clause 71	Replacement of s 331 (Content of program)	15
	Section 331—	16
	<i>omit, insert—</i>	17
'331	Content of program	18
	‘A transitional environmental program must, for the activity to which it relates—	19 20
	(a) state the objectives to be achieved and maintained under the program for the activity; and	21 22
	(b) state the particular actions required to achieve the objectives, and the day by which each action must be carried out, taking into account—	23 24 25
	(i) the best practice environmental management for the activity; and	26 27
	(ii) the risks of environmental harm being caused by the activity; and	28 29

[s 72]

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

Clause 72 Amendment of s 333 (Voluntary submission of draft program) 22
23
Section 333(2), from ‘substantially’ to ‘program’— 24
omit, insert— 25
‘contains or provides for the matters mentioned in section 331’.

Clause 73 Replacement of ss 339 and 340 28
Sections 339 and 340— 29
omit, insert— 30

‘339	Decision about draft program	1
‘(1)	The administering authority may—	2
	(a) approve a draft transitional environmental program—	3
	(i) as submitted; or	4
	(ii) as amended at the request, or with the agreement, of the administering authority; or	5 6
	(b) refuse to approve a draft transitional environmental program.	7 8
‘(2)	The administering authority may impose on an approval of a draft transitional environmental program—	9 10
	(a) any conditions the authority must impose under a regulatory requirement; and	11 12
	(b) any other conditions the administering authority considers appropriate.	13 14
‘(3)	If the draft transitional environmental program is approved, the approval remains in force for the period stated in the notice of the approval given under section 340.	15 16 17
‘340	Notice of decision	18
‘(1)	The administering authority must, within 8 business days after making a decision under section 339, give the person or public authority that submitted the program a written notice about the decision.	19 20 21 22
‘(2)	If the administering authority approves the program, the notice must—	23 24
	(a) identify the documents forming the approved transitional program, including any amendments under section 339(1)(a)(ii); and	25 26 27
	(b) state any conditions imposed on the approval by the administering authority; and	28 29
	(c) state the day the approval ends.	30

[s 74]

- ‘(3) If the administering authority refuses to approve the program 1
or approves the program with conditions, the notice must be 2
an information notice. 3

‘341 Content of approved program 4

‘An approved transitional environmental program consists of 5
the following— 6

- (a) the draft of the program submitted under section 332 or 7
333, as amended at the request, or with the agreement, 8
of the administering authority; 9
- (b) any conditions imposed on the program by the 10
administering authority.’. 11

Clause 74 Amendment of s 358 (When order may be issued) 12

Section 358— 13

insert— 14

‘(e) if the person is, or has been, contravening any of the 15
following provisions— 16

- (i) section 363E; 17
- (ii) section 440Q; 18
- (iii) section 440ZG; 19
- (iv) a provision of chapter 8, part 3D, 3E or 3F.’. 20

**Clause 75 Amendment of s 365 (Person may show cause why 21
financial assurance should not be required for 22
transitional environmental program or site management 23
plan) 24**

(1) Section 365(1), from ‘issuing’ to ‘or site’— 25

omit, insert— 26

‘approving a transitional environmental program or issuing a 27
certificate of approval of a site’. 28

-
- (2) Section 365(2)(c) and (d) and (4)(a), ‘person’— 1
insert— 2
‘applicant or person’. 3
- (3) Section 365(4)(b), from ‘holder’ to ‘person’— 4
omit, insert— 5
‘holder of the approval give financial assurance—the 6
authority must give written notice to the holder’. 7

- Clause 76 Amendment of s 432 (Contravention of program)** 8
- (1) Section 432, heading, ‘program’— 9
omit, insert— 10
‘requirement of program’. 11
- (2) Section 432(1) and (2), after ‘contravene’— 12
insert— 13
‘a requirement of’. 14

- Clause 77 Insertion of new s 432A** 15
After section 432— 16
insert— 17
- ‘432A Contravention of condition of approval** 18
‘A person must not, without reasonable excuse, contravene a 19
condition of an approval of a transitional environmental 20
program. 21
Maximum penalty—835 penalty units.’. 22

- Clause 78 Omission of s 440C (When deposit of litter unlawful)** 23
Section 440C— 24
omit. 25

[s 79]

Clause 79	Amendment of s 440D (Depositing litter)	1
(1)	Section 440D(1), ‘unlawfully’—	2
	<i>omit.</i>	3
(2)	Section 440D—	4
	<i>insert—</i>	5
‘(1A)	Subsection (1) does not apply to a person who deposits litter at a place other than a road if—	6
	(a) the person is an occupier of the place; or	7
	(b) the person deposits the litter with the consent of an occupier of the place; or	8
	(c) the person deposits the litter by placing it in a litter bin or other container provided by an occupier of the place for the purpose of depositing litter.’.	9
(3)	Section 440D(2)—	10
	<i>insert—</i>	11
	‘ occupier , of a place, includes a person who exercises or may exercise lawful authority or control in relation to the place.	12
	road means—	13
	(a) an area of land dedicated to public use as a road; or	14
	(b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or	15
	(c) a bridge, culvert, ferry, ford, tunnel or viaduct; or	16
	(d) a pedestrian or bicycle path; or	17
	(e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d).’.	18
(4)	Section 440D(1A) and (2)—	19
	<i>renumber</i> as section 440D(2) and (3).	20
		21
		22
		23
		24
		25
		26
		27
		28

Clause 80	Amendment of s 440L (Meaning of <i>audible noise</i>)	1
	Section 440L(1), ‘a building’—	2
	<i>omit, insert</i> —	3
	‘an affected building’.	4
Clause 81	Amendment of s 453 (Entry of land—search, test, sample etc. for release of contaminant)	5
	(1) Section 453(1) and (2)—	6
	<i>omit, insert</i> —	7
	‘(1) This section applies if an authorised person believes on reasonable grounds that unlawful environmental harm has been caused by the release of a contaminant into the environment.’.	8
	(2) Section 453(3), ‘An’—	9
	<i>omit, insert</i> —	10
	‘The’.	11
	(3) Section 453(4), ‘subsection (3)’—	12
	<i>omit, insert</i> —	13
	‘subsection (2)’.	14
	(4) Section 453(3) and (4)—	15
	<i>renumber</i> as section 453(2) and (3).	16
	(5) Section 453—	17
	<i>insert</i> —	18
	‘(4) In this section—	19
	land means a parcel of land other than any part on which a building is erected.’.	20
		21
		22
		23
		24
		25
Clause 82	Amendment of s 455 (Entry of land for access)	26
	Section 455(1) and (6), after ‘section 452’—	27

[s 83]

insert— 1
, 453’. 2

Clause 83 Amendment of s 456 (Warrants) 3

Section 456(5)(a), ‘that the’— 4

omit, insert— 5

‘that any authorised person or a stated’. 6

Clause 84 Amendment of s 465 (Power to require answers to questions) 7
8

(1) Section 465(2), from ‘may’— 9

omit, insert— 10

‘may— 11

(a) require the person to answer a question about the
suspected offence; or 12
13

(b) by written notice given to the person, require the person
to attend a stated reasonable place at a stated reasonable
time, to answer questions about the suspected offence.’. 14
15
16

(2) Section 465— 17

insert— 18

‘(4) A notice given under subsection (2)(b) must— 19

(a) identify the suspected offence; and 20

(b) state that the authorised person believes the person may
be able to give information about the suspected offence;
and 21
22
23

(c) include the warning required to be given under
subsection (3).’. 24
25

Clause 85 Amendment of s 473 (Failure to help authorised person—emergency) 26
27

(1) Section 473(3) and (5), ‘person’— 28

<i>omit, insert—</i>	1
‘individual’.	2
(2) Section 473(3), after ‘producing of a document’—	3
<i>insert—</i>	4
‘by an individual’.	5
(3) Section 473(4), ‘the person’—	6
<i>omit, insert—</i>	7
‘the individual’.	8
(4) Section 473(4)(c), ‘either’—	9
<i>omit, insert—</i>	10
‘any’.	11
(5) Section 473(4)(c) and (5), after first dot point—	12
<i>insert—</i>	13
‘• section 480A’.	14
(6) Section 473(5), ‘either’—	15
<i>omit, insert—</i>	16
‘any’.	17
Clause 86	
Amendment of s 476 (Failure to answer questions)	18
(1) Section 476, heading, after ‘to’—	19
<i>insert—</i>	20
‘ attend or ’.	21
(2) Section 476(1)(a), from ‘to’—	22
<i>omit, insert—</i>	23
‘to—	24
(i) answer a question; or	25
(ii) attend a stated reasonable place at a stated reasonable time, to answer questions; but’.	26 27

[s 87]

- (3) Section 476(3)— 1
omit, insert— 2
- ‘(3) For subsection (1), it is a reasonable excuse for an individual 3
to fail to answer a question if answering the question might 4
tend to incriminate the individual.’ 5

- Clause 87 Amendment of s 480 (False, misleading or incomplete 6
documents) 7**
- (1) Section 480, heading, ‘, misleading or incomplete’— 8
omit, insert— 9
‘**or misleading**’. 10
- (2) Section 480(1), from ‘knows’ to ‘particular’— 11
omit, insert— 12
‘knows, or ought reasonably to know, is false or misleading in 13
a material particular’. 14
- (3) Section 480(2)(a)— 15
omit, insert— 16
‘(a) informs the administering authority or authorised person 17
of the extent to which the document is false or 18
misleading; and’. 19
- (4) Section 480(2)(b), after ‘to the’— 20
insert— 21
‘administering authority or’. 22
- (5) Section 480(3)— 23
omit, insert— 24
- ‘(3) It is enough for a complaint for an offence against subsection 25
(1) to state the person knew, or ought reasonably to have 26
known, the document was false or misleading, without 27
specifying which of the following applies— 28
- (a) the person knew it was false; 29

-
- (b) the person knew it was misleading; 1
 - (c) the person ought reasonably to have known it was false; 2
 - (d) the person ought reasonably to have known it was 3
misleading.’ 4

Clause 88 Insertion of new s 480A 5

After section 480— 6

insert— 7

‘480A Incomplete documents 8

‘(1) This section applies to a person who is required under this Act 9
to give a document to the administering authority or an 10
authorised person. 11

‘(2) The person must not give to the administering authority or 12
authorised person a document the person knows, or ought 13
reasonably to know, contains incomplete information in a 14
material particular. 15

Maximum penalty—1665 penalty units or 2 years 16
imprisonment. 17

‘(3) Subsection (2) does not apply to a person who, when giving 18
the document— 19

(a) informs the administering authority or authorised person 20
of the extent to which the document is incomplete; and 21

(b) gives the complete information to the administering 22
authority or authorised person if the person has, or can 23
reasonably obtain, the information. 24

‘(4) It is enough for a complaint for an offence against subsection 25
(2) to state the person knew, or ought reasonably to have 26
known, the document was incomplete, without specifying 27
whether the person knew it was incomplete or whether the 28
person ought reasonably to have known it was incomplete.’ 29

[s 89]

Clause 89	Replacement of s 502 (Court may order payment of compensation etc.)	1 2
	Section 502—	3
	<i>omit, insert—</i>	4
'502	Court may make particular orders	5
	'(1) This section applies if, in a proceeding for an offence against this Act—	6 7
	(a) the court finds the defendant has caused environmental harm by a contravention of this Act that constitutes an offence; or	8 9 10
	(b) the court finds the defendant has committed an offence against any of the following—	11 12
	(i) section 426;	13
	(ii) section 426A;	14
	(iii) section 427;	15
	(iv) section 430;	16
	(v) section 435;	17
	(vi) section 435A;	18
	(vii) section 440ZG.	19
	'(2) The court may, on application by the prosecution, make 1 or more of the following orders against the defendant—	20 21
	(a) a rehabilitation or restoration order;	22
	(b) a public benefit order;	23
	(c) an education order;	24
	(d) a monetary benefit order;	25
	(e) a notification order.	26
	'(3) Subsection (4) applies if the court finds that, because of the act or omission constituting the offence, another person has—	27 28
	(a) suffered loss of income; or	29

-
- (b) suffered a reduction in the value of, or damage to, property; or 1
2
- (c) incurred costs or expenses in replacing or repairing property, or in preventing or minimising, or attempting to prevent or minimise, a loss, reduction or damage mentioned in paragraph (a) or (b). 3
4
5
6
- ‘(4) In addition to any order the court makes under subsection (2), the court may, on application by the prosecution, order the defendant to do either or both of the following— 7
8
9
- (a) pay to the other person an amount of compensation the court considers appropriate for the loss, reduction or damage suffered, or costs or expenses incurred; 10
11
12
- (b) take stated remedial action the court considers appropriate. 13
14
- ‘(5) An order under this section must state the time within which the order must be complied with. 15
16
- ‘(6) This section does not limit the court’s powers under the *Penalties and Sentences Act 1992* or any other law. 17
18
- ‘(7) In this section— 19
- education order*** means an order requiring the person against whom it is made to conduct a stated advertising or education campaign to promote compliance with this Act. 20
21
22
- monetary benefit order*** means an order requiring the person against whom it is made to pay an amount representing any financial or other benefit the person has received because of the act or omission constituting the offence in relation to which the order is made. 23
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26
27
- Example of a monetary benefit order—* 28
- If a defendant is found to have carried out an environmentally relevant activity without an environmental authority, the court may order the defendant to pay the administering authority an amount equal to the annual fees for the period for which the activity was carried out without an environmental authority. 29
30
31
32
33

[s 89]

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

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

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

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

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

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

‘502A Administering authority may take action and recover costs

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

Clause 90	Amendment of s 530 (Decision for other appeals)	1
	Section 530(5), ‘section 569 and’—	2
	<i>omit.</i>	3
Clause 91	Amendment of s 552 (What is the <i>application date</i> for application or TEP submission)	4
	(1) Section 552(3), ‘that day’—	5
	<i>omit, insert—</i>	6
	‘the day the application or submission is made’.	7
	(2) Section 552(4)—	8
	<i>renumber</i> as section 552(6).	9
	(3) Section 552—	10
	<i>insert—</i>	11
	‘(4) Also, subsection (5) applies for a TEP submission if, within 8 business days after the day the submission is made, the authority—	12
	(a) advises the person who made the submission that the TEP or proposed amended TEP to which the submission relates does not contain or provide for a matter mentioned in section 331; and	13
	(b) requires the person to—	14
	(i) amend the submission so the TEP or proposed amended TEP complies with section 331; and	15
	(ii) resubmit the submission to the authority.	16
	‘(5) The <i>application date</i> is—	17
	(a) the day that is 10 business days after the day the amended TEP submission is submitted to the authority;	18
	or	19
	(b) if, within 8 business days after the day the amended TEP submission is submitted to the authority, the authority requires additional information relating to the amended	20
		21
		22
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[s 92]

	TEP submission—the day the authority states as the application date in a written notice given by it to the person.’.	1 2 3
(4)	Section 552(6), as renumbered, ‘in the notice’— <i>omit, insert—</i> ‘in a notice given to the person under this section’.	4 5 6
(5)	Section 552— <i>insert—</i>	7 8
‘(7)	In this section— <i>person</i> , in relation to a TEP submission, includes a public authority. <i>TEP</i> means a transitional environmental program.’.	9 10 11 12
Clause 92	Omission of ch 12, pt 3 (Exemption from disclosure) Chapter 12, part 3— <i>omit.</i>	13 14 15
Clause 93	Insertion of new ch 13, pt 17 Chapter 13— <i>insert—</i>	16 17 18
‘Part 17	Transitional provisions for the Environmental Protection and Other Legislation Amendment Act 2010	19 20 21 22
‘666	Definitions for pt 17 ‘In this part— <i>amending Act</i> means the <i>Environmental Protection and Other Legislation Amendment Act 2010</i> .	23 24 25 26

<i>commencement</i> means commencement of this section.	1
<i>unamended Act</i> means this Act as in force from time to time before the commencement.	2 3
'667 Existing EISs	4
'(1) This section applies to an EIS submitted under section 47 before the day this section commences, for which the chief executive has not made a decision under section 49 on the day this section commences.	5 6 7 8
'(2) The EIS must be considered under this Act even though a fee has not been paid as required under section 47(2) as in force immediately after the day this section commences.	9 10 11
'668 Existing application for registration to carry out chapter 4 activity	12 13
'(1) This section applies to an application under section 73D made before the commencement that has not been decided at the commencement.	14 15 16
'(2) The application must be decided under the unamended Act.	17
'(3) For subsection (2), the unamended Act continues in effect as if it had not been amended by the amending Act.	18 19
'669 Registration to carry out chapter 4 activity	20
'(1) This section applies if—	21
(a) before the commencement, the administering authority issued a registration certificate to a person and, at the commencement, the person does not have a development permit; or	22 23 24 25
(b) the administering authority issues a registration certificate to a person under the unamended Act as applied by section 668, and the person does not have a development permit.	26 27 28 29

[s 93]

- ‘(2) Section 73G as in force immediately before the commencement applies in relation to the registration certificate. 1
2
3
- ‘670 Existing non-code compliant application for a level 1 mining project 4
5**
- ‘(1) This section applies to an environmental authority (mining lease) application made before the commencement if— 6
7
- (a) it is a non-code compliant application for a level 1 mining project; and 8
9
- (b) the Land Court has, under section 222 of the unamended Act, given a recommendation to the MRA Minister; and 10
11
- (c) at the commencement, the EPA Minister has not decided the application. 12
13
- ‘(2) Sections 224 and 225 of the unamended Act continue to apply in relation to the application as if the sections had not been amended by the amending Act. 14
15
16
- ‘671 Existing draft transitional environmental programs 17**
- ‘(1) This section applies to a draft transitional environment program submitted under section 332 or 333 before the commencement if, at the commencement, the administering authority has not decided whether to approve it. 18
19
20
21
- ‘(2) The administering authority must consider, or continue to consider, the draft transitional environment program and decide whether to approve it under the unamended Act. 22
23
24
- ‘(3) For subsection (2), the unamended Act continues in effect as if it had not been amended by the amending Act. 25
26
- ‘672 Transitional environmental programs 27**
- ‘A transitional environmental program in force at the commencement, or approved under the unamended Act as applied by section 671, continues in effect even if it does not 28
29
30

comply with section 331 as in force immediately after the commencement.	1 2
‘673 Existing application for disclosure exemption	3
‘(1) This section applies to an application for a disclosure exemption made under section 564 of the unamended Act before the commencement that has not been decided at the commencement.	4 5 6 7
‘(2) At the commencement, the application is taken to have been withdrawn.	8 9
‘674 Existing reviews and appeals about disclosure exemptions	10 11
‘(1) Subsection (2) applies to an application for a review of an original decision mentioned in schedule 2, part 1, division 5 of the unamended Act that—	12 13 14
(a) was made under section 521 before the commencement; and	15 16
(b) has not been decided at the commencement.	17
‘(2) At the commencement, the application is taken to have been withdrawn.	18 19
‘(3) Subsection (4) applies to an appeal against a review decision for an original decision mentioned in schedule 2, part 1, division 5 of the unamended Act that—	20 21 22
(a) was made under section 524 before the commencement; and	23 24
(b) has not been decided at the commencement.	25
‘(4) At the commencement—	26
(a) the appeal is taken to have been withdrawn; and	27
(b) if the Land Court has started to hear the appeal, the Land Court must stop hearing the appeal.	28 29

[s 94]

‘675	Existing disclosure exemptions	1
	‘(1) This section applies to a disclosure exemption granted under the unamended Act.	2 3
	‘(2) Chapter 12, part 3 of the unamended Act continues to apply in relation to the disclosure exemption as if this Act had not been amended by the amending Act.’.	4 5 6
Clause 94	Amendment of sch 2 (Original decisions)	7
	Schedule 2, part 1, division 5—	8
	<i>omit.</i>	9
Clause 95	Amendment of sch 4 (Dictionary)	10
	(1) Schedule 4, definitions <i>disclosure exemption</i> , <i>exempted material</i> and <i>mobile and temporary environmentally relevant activity</i> —	11 12 13
	<i>omit.</i>	14
	(2) Schedule 4—	15
	<i>insert</i> —	16
	‘ <i>amending Act</i> , for chapter 13, part 17, see section 666.	17
	<i>commencement</i> , for chapter 13, part 17, see section 666.	18
	<i>development permit</i> means a development permit as defined under the Planning Act.	19 20
	<i>environmental standard</i> means—	21
	(a) an environmental standard (however called) set out, or otherwise provided for, in a regulation under this Act; or	22 23
	(b) an outcome or objective that is directed at protecting or enhancing environmental values set out in an environmental protection policy.	24 25 26
	<i>mobile and temporary environmentally relevant activity</i> means a chapter 4 activity, other than an activity that is dredging material, extracting rock or other material, or the incinerating of waste—	27 28 29 30

-
- (a) carried out at various locations using transportable plant or equipment, including a vehicle; and 1
2
- (b) that does not result in the building of any permanent structures or any physical change of the landform at the locations (other than minor alterations solely necessary for access and setup including, for example, access ways, footings and temporary storage areas); and 3
4
5
6
7
- (c) carried out at any one of the locations— 8
- (i) for less than 28 days in a calendar year; or 9
- (ii) for 28 or more days in a calendar year only if the activity is necessarily associated with, and is exclusively used in, the construction or demolition phase of a project. 10
11
12
13
- State Development Minister* means the Minister for the time being administering the State Development Act. 14
15
- unamended Act*, for chapter 13, part 17, see section 666.’. 16
- (3) Schedule 4, definition *anniversary day*, for an environmental authority, paragraph 1, editor’s note— 17
18
- omit, insert—* 19
- ‘*Note—* 20
- See, however, section 602.’. 21

Part 5 **Amendment of Marine Parks Act 2004** 22
23

- Clause 96** **Act amended** 24
- This part amends the *Marine Parks Act 2004*. 25
- Note—* 26
- See also the schedule. 27

[s 97]

Clause 97	Amendment of s 62 (Issue of warrant)	1
	Section 62(2)(b), after ‘that’—	2
	<i>insert—</i>	3
	‘any inspector or’.	4
Clause 98	Amendment of s 65 (Warrants—procedure before entry)	5
	Section 65(1)—	6
	<i>omit, insert—</i>	7
	‘(1) This section applies if an inspector is intending to enter a place under a warrant issued under this part.’.	8 9
Clause 99	Insertion of new ss 145A and 145B	10
	After section 145—	11
	<i>insert—</i>	12
	‘145A Chief executive’s general powers	13
	‘(1) The chief executive may do any thing the chief executive reasonably considers is necessary to administer, or achieve the object of, this Act, including, for example—	14 15 16
	(a) enter or use a marine park for a prohibited purpose within the meaning of section 43(3); or	17 18
	(b) take a cultural or natural resource of a marine park.	19
	‘(2) To remove any doubt, it is declared that the chief executive does not require an authority under this Act to carry out an activity authorised under subsection (1).	20 21 22
	‘145B Entry or use by authorised persons without permission or giving notice	23 24
	‘An authorised person may, without a permission and without giving the chief executive notice, enter or use a part of a marine park to carry out activities relating to the management of the park.	25 26 27 28

Examples of activities relating to the management of the part— 1
carrying out research, works, or an education program’. 2

Clause 100 Insertion of new s 147A 3

After section 147— 4

insert— 5

‘147A Immunity from prosecution 6

‘(1) An inspector is not liable to be prosecuted for an offence 7
against this Act for anything done or omitted to be done— 8

(a) under a direction given by the Minister or chief 9
executive for the purposes of this Act; or 10

(b) in the exercise of a power or performance of a function 11
conferred or imposed on the inspector under this Act. 12

‘(2) A person acting under a direction given by the Minister, the 13
chief executive or an inspector for the purposes of this Act is 14
not liable to be prosecuted for an offence against this Act for 15
anything done or omitted to be done under the direction.’. 16

Part 6 Amendment of Nature 17
Conservation Act 1992 18

Clause 101 Act amended 19

This part amends the *Nature Conservation Act 1992*. 20

Note— 21

See also the schedule. 22

Clause 102 Amendment of s 29 (Dedication of protected areas) 23

Section 29(1), from ‘or a forest reserve’ to ‘*Land Act 1994*’— 24

omit. 25

[s 103]

Clause 103	Amendment of s 148 (Monitoring warrants)	1
	Section 148(4)(a), ‘authorise the’—	2
	<i>omit, insert</i> —	3
	‘authorise any conservation officer or a stated’.	4
Clause 104	Amendment of s 149 (Offence related warrants)	5
	Section 149(4)(a), ‘authorise the’—	6
	<i>omit, insert</i> —	7
	‘authorise any conservation officer or a stated’.	8
Clause 105	Amendment of s 175 (Regulation-making power)	9
	(1) Section 175(2)(o) to (r)—	10
	<i>renumber</i> as section 175(2)(p) to (s).	11
	(2) Section 175(2)—	12
	<i>insert</i> —	13
	‘(o) the matters in respect of which royalties are payable under this Act, the amounts of the royalties, the persons who are liable to pay the royalties, when the royalties are payable, and the recovery of any amount of the royalties not paid;’.	14 15 16 17 18

Part 7	Amendment of Queensland Heritage Act 1992	19 20
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Clause 106	Act amended	21
	This part amends the <i>Queensland Heritage Act 1992</i> .	22
	<i>Note</i> —	23
	See also the schedule.	24

Clause 107	Amendment of s 34 (Changing entries in register)	1
	(1) Section 34(1), ‘registered place’—	2
	<i>omit, insert—</i>	3
	‘Queensland heritage place’.	4
	(2) Section 34(1)(b)—	5
	<i>omit, insert—</i>	6
	‘(b) corrects, updates or otherwise varies the information that identifies the location and boundaries of the place; or’.	7 8 9
	(3) Section 34(2)—	10
	<i>omit, insert—</i>	11
	‘(2) However, the chief executive must not, without the written agreement of the owner of a Queensland heritage place and the council—	12 13 14
	(a) change information that identifies a boundary for the place under subsection (1)(b); or	15 16
	(b) change a statement mentioned in section 31(3)(e), (f) or (g) under subsection (1)(c).’.	17 18
Clause 108	Amendment of s 36 (Applying to enter place in, or remove place from, register)	19 20
	Section 36(2)(c)(ii)—	21
	<i>omit, insert—</i>	22
	‘(ii) information about the history of the place, including, for example, copies of photographs, maps, plans, historical titles information and other relevant publications, to support the statement mentioned in subparagraph (i); and’.	23 24 25 26 27
Clause 109	Amendment of s 44 (Chief executive to give heritage recommendation to council)	28 29
	(1) Section 44(1), from ‘or removed from’—	30

[s 110]

omit, insert— 1

‘removed from (with or without variation) or stay on the
Queensland heritage register.’. 2
3

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

insert— 5

‘, with or without variation’. 6

Clause 110 Insertion of new pt 4, div 4A 7

Part 4— 8

insert— 9

‘Division 4A Destroyed place recommendations 10

**‘46A Chief executive may give destroyed place
recommendation** 11
12

‘(1) The chief executive may, whether or not on application by a
person, give the council a written recommendation (a
destroyed place recommendation) that a State heritage place
be removed from the register if— 13
14
15
16

(a) the place has been— 17

(i) completely or substantially destroyed by fire or
natural disaster; or 18
19

(ii) wholly or substantially demolished by
development carried out under a development
approval or a recommendation under section 71(6);
and 20
21
22
23

(b) the chief executive considers the place no longer
satisfies any of the cultural heritage criteria; and 24
25

(c) the chief executive has consulted with the owner of the
place about the proposed recommendation. 26
27

‘(2) The destroyed place recommendation must be accompanied
by— 28
29

-
- (a) details of the complete or substantial destruction or the whole or substantial demolition; and 1
2
 - (b) reasons why the chief executive considers the place no longer satisfies any of the cultural heritage criteria; and 3
4
 - (c) details of how the owner of the place was consulted with under subsection (1)(c), and the outcome of the consultation.’. 5
6
7

- Clause 111 Amendment of s 47 (Council’s role in relation to heritage recommendations)** 8
9
- (1) Section 47, heading, after ‘heritage’— 10
insert— 11
‘or destroyed place’. 12
 - (2) Section 47, after ‘recommendation’— 13
insert— 14
‘or destroyed place recommendation’. 15

- Clause 112 Amendment of s 48 (Council may seek further information)** 16
17
- Section 48, from ‘for an application’— 18
omit, insert— 19
‘or destroyed place recommendation for a State heritage place, the council may ask a person or other entity the council considers appropriate to make written representations to the council about the place.’. 20
21
22
23

- Clause 113 Amendment of s 54 (Notice of council’s decision)** 24
- Section 54(2)(a)— 25
omit, insert— 26
‘(a) publish the decision, and notice of the day it was made, in the gazette; and’. 27
28

[s 114]

Clause 114	Insertion of new pt 4, div 5, sdiv 4	1
	Part 4, division 5—	2
	<i>insert—</i>	3
‘Subdivision 4	Decisions on destroyed place recommendations	4
		5
‘56A	Council to make decision on destroyed place recommendation	6
		7
‘(1)	The council must, within 60 days after receiving a destroyed place recommendation for a place, decide to either—	8
		9
	(a) remove the place from the register; or	10
	(b) leave the place on the register, with or without variation.	11
‘(2)	The council may decide to remove a State heritage place the subject of a destroyed place recommendation from the Queensland heritage register, only if the council considers—	12
		13
		14
	(a) the place has been—	15
	(i) completely or substantially destroyed by fire or natural disaster; or	16
		17
	(ii) wholly or substantially demolished by development carried out under a development approval or a recommendation under section 71(6); and	18
		19
		20
		21
	(b) the place does not satisfy any of the cultural heritage criteria; and	22
		23
	(c) the owner of the place has been consulted about the removal.	24
		25
‘(3)	Immediately after making a decision on a destroyed place recommendation, the council must advise the chief executive of the decision and the day it was made.	26
		27
		28
‘(4)	Within 10 business days after receiving the advice, the chief executive must—	29
		30

-
- (a) publish the decision, and notice of the day it was made,
in the gazette; and 1
2
 - (b) give notice of the decision to— 3
 - (i) the owner of the place; and 4
 - (ii) the local government for the area in which the
place is situated.’. 5
6

- Clause 115 Amendment of s 67 (Notice of council’s decision)** 7
- Section 67(2)(a)— 8
- omit, insert—* 9
- ‘(a) publish the decision, and notice of the day it was made,
in the gazette; and’. 10
11

- Clause 116 Amendment of s 87 (Chief executive may give notice
about essential maintenance work)** 12
13
- (1) Section 87(1)(b), ‘or vandalism’— 14
- omit, insert—* 15
- ‘, vandalism or insects’. 16
- (2) Section 87(7), examples, at the end— 17
- insert—* 18
- ‘• taking steps for managing or eradicating termites or other insects’. 19

- Clause 117 Amendment of s 122 (Changing entries in register)** 20
- (1) Section 122(1)(b)— 21
- omit, insert—* 22
- ‘(b) corrects, updates or otherwise varies the information
that identifies the location and boundaries of the place;
or’. 23
24
25
- (2) Section 122(2)— 26
- omit, insert—* 27

[s 118]

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

Clause 118	Amendment of s 136 (Issue of warrant)	7
	Section 136(2)(a), after ‘that’—	8
	<i>insert</i> —	9
	‘any authorised person or’.	10
Clause 119	Amendment of s 138 (Warrants—procedure before entry)	11
	Section 138(1)—	12
	<i>omit, insert</i> —	13
	‘(1) This section applies if an authorised person is intending to enter a place under a warrant issued under this part.’.	14 15
Clause 120	Amendment of s 142 (Seizing evidence at a place that may only be entered with consent or warrant)	16 17
	Section 142(1)(b), after ‘consent or’—	18
	<i>insert</i> —	19
	‘under a’.	20
Clause 121	Insertion of new pt 15, div 3	21
	Part 15—	22
	<i>insert</i> —	23

‘Division 3	Transitional provision for Environmental Protection and Other Legislation Amendment Act 2010	1 2 3
‘195	References to registered place	4
‘(1)	In an Act or document, a reference to a registered place under the unamended Act is taken to be a reference to a Queensland heritage place under this Act.	5 6 7
‘(2)	In this section—	8
	<i>unamended Act</i> means this Act as in force from time to time before the commencement of this section.’.	9 10
Clause 122	Amendment of schedule (Dictionary)	11
(1)	Schedule, definition <i>registered place</i> —	12
	<i>omit.</i>	13
(2)	Schedule—	14
	<i>insert</i> —	15
	‘ <i>destroyed place recommendation</i> , for a State heritage place, see section 46A(1).	16 17
	<i>Queensland heritage place</i> means a State heritage place, an archaeological place or a protected area.’.	18 19
Part 8	Amendment of Recreation Areas Management Act 2006	20 21
Clause 123	Act amended	22
	This part amends the <i>Recreation Areas Management Act 2006</i> .	23 24

[s 124]

Clause 124	Amendment of s 19 (Public notice of draft management plan)	1 2
	Section 19(6)—	3
	<i>omit, insert—</i>	4
	‘(6) The fee must not be more than the reasonable cost incurred by the chief executive for printing the copy and giving it to the person.	5 6 7
	‘(7) For subsection (6), if the person asks for the copy to be mailed to the person, the fee may include the reasonable cost of mailing the copy to the person.’	8 9 10
Clause 125	Amendment of s 26 (Public notice of draft amendment)	11
	Section 26(5)—	12
	<i>omit, insert—</i>	13
	‘(5) The fee must not be more than the reasonable cost incurred by the chief executive for printing the copy and giving it to the person.	14 15 16
	‘(6) For subsection (5), if the person asks for the copy to be mailed to the person, the fee may include the reasonable cost of mailing the copy to the person.’	17 18 19
Clause 126	Amendment of s 32 (Public access to approved management plans)	20 21
	Section 32(3)—	22
	<i>omit, insert—</i>	23
	‘(3) The fee must not be more than the reasonable cost incurred by the chief executive for printing the copy and giving it to the person.	24 25 26
	‘(4) For subsection (3), if the person asks for the copy to be mailed to the person, the fee may include the reasonable cost of mailing the copy to the person.’	27 28 29

Clause 127	Amendment of s 88 (Term and review of commercial activity agreements)	1 2
	Section 88, ‘10 years’—	3
	<i>omit, insert</i> —	4
	‘15 years’.	5
Clause 128	Amendment of s 111 (Unlawfully conducting commercial activity)	6 7
	(1) Section 111(1), from ‘unless’ to ‘agreement.’—	8
	<i>omit, insert</i> —	9
	‘unless—	10
	(a) the person is authorised to conduct the activity under—	11
	(i) a commercial activity permit; or	12
	(ii) a commercial activity agreement; or	13
	(b) all of the following apply—	14
	(i) the activity consists of only filming or photography, or filming and photography;	15 16
	(ii) no more than 2 people are involved in conducting the activity;	17 18
	(iii) no prescribed structures are used in conducting the activity.’.	19 20
	(2) Section 111(2), penalty, ‘for subsection (2)’—	21
	<i>omit.</i>	22
	(3) Section 111—	23
	<i>insert</i> —	24
	‘(3) In this section—	25
	prescribed structure means equipment or a construction used to facilitate filming or photography, and—	26 27
	(a) includes a tower, platform, generator, vehicle, shelter and building; but	28 29

[s 129]

- (b) does not include— 1
 - (i) a camera or camera accessories; or 2
 - (ii) a tripod; or 3
 - (iii) a portable hide large enough to shelter only one person; or 4 5
 - (iv) a power source consisting of only dry cells or a single wet cell battery; or 6 7
 - (v) a vehicle used only for transport or camping under a permit or commercial activity agreement.’. 8 9

Clause 129 Amendment of s 114 (Unauthorised structures and works) 10 11

Section 114— 12

insert— 13

‘(3) Also, subsection (1) does not apply to a tripod, or a portable hide large enough to shelter only one person, that is used for conducting a prescribed filming or photography activity. 14 15 16

‘(4) In this section— 17

prescribed filming or photography activity means an activity consisting of only filming or photography if no more than 2 people are involved in conducting the activity.’. 18 19 20

Clause 130 Amendment of s 115 (Unlawful lighting of fires) 21

(1) Section 115(1) and (2), after ‘light’— 22

insert— 23

‘, keep or use’. 24

(2) Section 115(2) and (4)(a), after ‘lighting’— 25

insert— 26

‘, keeping or using’. 27

Clause 131	Amendment of s 153 (Issue of warrant)	1
	Section 153(2)(b), after ‘that’—	2
	<i>insert</i> —	3
	‘any authorised officer or’.	4
Clause 132	Amendment of s 156 (Warrants procedure before entry)	5
	Section 156(1)—	6
	<i>omit, insert</i> —	7
	‘(1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this part.’.	8
		9
Clause 133	Amendment of s 163 (Power to stop persons)	10
	Section 163(1)(a), ‘finds the person’—	11
	<i>omit, insert</i> —	12
	‘reasonably suspects the person is’.	13
Part 9	Amendment of Torres Strait Islander Cultural Heritage Act 2003	14
		15
		16
Clause 134	Act amended	17
	This part amends the <i>Torres Strait Islander Cultural Heritage Act 2003</i> .	18
		19
Clause 135	Amendment of s 131 (Issue of warrant)	20
	Section 131(2)(a), after ‘that’—	21
	<i>insert</i> —	22
	‘any authorised officer or’.	23

[s 136]

Clause 136	Amendment of s 133 (Warrants—procedure before entry)	1
	Section 133(1)—	2
	<i>omit, insert—</i>	3
	‘(1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this part.’	4 5
Clause 137	Amendment of s 138 (Seizing evidence at a place that may only be entered with consent or warrant)	6 7
	Section 138(1)(b), after ‘consent or’—	8
	<i>insert—</i>	9
	‘under a’.	10
Part 10	Amendment of Water Supply (Safety and Reliability) Act 2008	11 12
Clause 138	Act amended	13
	This part amends the <i>Water Supply (Safety and Reliability) Act 2008</i> .	14 15
Clause 139	Amendment of s 415 (Issue of warrant)	16
	Section 415(2)(b), after ‘that’—	17
	<i>insert—</i>	18
	‘any authorised officer or’.	19
Clause 140	Amendment of s 418 (Warrants—procedure before entry)	20
	Section 418(1)—	21
	<i>omit, insert—</i>	22

‘(1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this part.’. 1
2

Clause 141 Amendment of s 422 (Seizing evidence) 3

Section 422(3), ‘with’— 4

omit, insert— 5

‘under’. 6

Part 11 Other amendments 7

Clause 142 Acts amended in schedule 8

The schedule amends the Acts it mentions. 9

Schedule	Amendment of other Acts	1
	section 142	2
Environmental Protection Act 1994		3
1	Section 470(3), ‘person’—	4
	<i>omit, insert—</i>	5
	‘individual’.	6
2	Section 474(3), ‘person’—	7
	<i>omit, insert—</i>	8
	‘individual’.	9
3	Schedule 4, definition <i>cattle</i>—	10
	<i>omit, insert—</i>	11
	‘ <i>cattle</i> , for chapter 4A, see section 77.’.	12
Forestry Act 1959		13
1	Section 34B, heading, ‘Motor Vehicles Control Act’—	14
	<i>omit, insert—</i>	15
	‘ Transport Operations (Road Use Management) Act 1995 ’.	16
		17
2	Schedule 3, definition <i>public purposes</i>—	18
	<i>omit, insert—</i>	19

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

Marine Parks Act 2004 4

1 **Section 4—** 5
omit. 6

2 **Sections 136(4)(b), 'purpose'—** 7
omit, insert— 8
 'offence'. 9

Mineral Resources Act 1989 10

1 **Sections 319(2) and 319A(4)(b), 'registered place'—** 11
omit, insert— 12
 'Queensland heritage place'. 13

Nature Conservation Act 1992 14

1 **Section 70E(1), 'Council, may'—** 15
omit, insert— 16
 'Council may,'. 17

Schedule

2	Section 74(c), before ‘prohibit’—	1
	<i>insert—</i>	2
	‘to’.	3
3	Section 88(3), ‘subsection (1)’—	4
	<i>omit, insert—</i>	5
	‘subsection (2)’.	6
4	Section 95(4), ‘The person’—	7
	<i>omit, insert—</i>	8
	‘A person’.	9
5	Section 100A(2)(b), ‘authorise’—	10
	<i>omit, insert—</i>	11
	‘authorising’.	12
6	Section 100B(4), definition <i>recovery plan</i>, example, after ‘<i>Biodiversity</i>’—	13
	<i>insert—</i>	14
	‘ <i>Conservation</i> ’.	16
7	Section 101, definition <i>protected area</i>, ‘Wet Tropics Area’—	17
	<i>omit, insert—</i>	18
	‘wet tropics area’.	20
8	Section 127(1), editor’s note—	21
	<i>omit, insert—</i>	22

	<i>Note—</i>	1
	Under the <i>Police Powers and Responsibilities Act 2000</i> , section 13, a police officer may be appointed as a conservation officer only with the written approval of the commissioner of the police service.’	2 3 4
9	Section 167, ‘(1)’—	5
	<i>omit.</i>	6
 Queensland Heritage Act 1992		 7
1	Section 2(2)(d) and (e), part 6 heading, and section 75(2), ‘registered places’—	8 9
	<i>omit, insert—</i>	10
	‘Queensland heritage places’.	11
2	Section 52(1), ‘relation it’—	12
	<i>omit, insert—</i>	13
	‘relation to it’.	14
3	Sections 70, 71(1)(a), 72(1), (3) and (4), definition <i>relevant person</i>, 75(1), 76, 78(a), 80(1) and (3)(a), 81, 92(1), 126(1)(b)(ii), 169(4), definition <i>offence</i>, paragraph (b), 170(1) and (6), definition <i>offence</i>, paragraph (b) and 173(1)(b), ‘registered place’—	15 16 17 18 19
	<i>omit, insert—</i>	20
	‘Queensland heritage place’.	21

	Sustainable Planning Act 2009	1
1	Schedule 3, definition <i>Queensland heritage place</i>—	2
	<i>omit, insert—</i>	3
	<i>'Queensland heritage place</i> see the <i>Queensland Heritage Act 1992</i> , schedule.'	4
		5
	 Transport Infrastructure Act 1994	 6
1	Sections 85B(1), 93A(1) and 283ZV(4), definition <i>Queensland heritage place</i>, 'registered place'—	7
	<i>omit, insert—</i>	8
	'Queensland heritage place'.	9
		10
	 Urban Land Development Authority Act 2007	 11
1	Section 42(2)(b), 'registered place'—	12
	<i>omit, insert—</i>	13
	'Queensland heritage place'.	14