



Queensland

Greenhouse Gas Storage Act 2009

Act No. 3 of 2009



Queensland

Greenhouse Gas Storage Act 2009

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Queensland

Greenhouse Gas Storage Act 2009

Act No. 3 of 2009

An Act to facilitate greenhouse gas geological storage and to amend the Aboriginal Land Act 1991, Coastal Protection and Management Act 1995, Dangerous Goods Safety Management Act 2001, Duties Act 2001, Electrical Safety Act 2002, Electricity Act 1994, Environmental Protection Act 1994, Fire and Rescue Service Act 1990, Foreign Ownership of Land Register Act 1988, Forestry Act 1959, Geothermal Exploration Act 2004, Integrated Planning Act 1997, Land Act 1994, Land Protection (Pest and Stock Route Management) Act 2002, Land Title Act 1994, Local Government Act 1993, Mineral Resources Act 1989, Nature Conservation Act 1992, Petroleum Act 1923, Petroleum and Gas (Production and Safety) Act 2004, Queensland Competition Authority Act 1997, Queensland Heritage Act 1992, State Development and Public Works Organisation Act 1971, Survey and Mapping Infrastructure Act 2003, Torres Strait Islander Land Act 1991, Valuation of Land Act 1944, Water Supply (Safety and Reliability) Act 2008, Whistleblowers Protection Act 1994 and the Workplace Health and Safety Act 1995

[Assented to 23 February 2009]

[s 1]

The Parliament of Queensland enacts—

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Greenhouse Gas Storage Act 2009*.

2 Commencement

Chapters 2 and 3 commence on a day to be fixed by proclamation.

Part 2 Purposes and application of Act

3 Purposes of Act and their achievement

- (1) The main purpose of this Act is to help reduce the impact of greenhouse gas emissions on the environment.
- (2) The main purpose is achieved principally by facilitating the process called greenhouse gas geological storage, also called greenhouse gas storage (*GHG storage*).
- (3) This Act facilitates GHG storage by—
 - (a) providing for the granting of authorities (called ‘GHG authorities’) to explore for or use underground

-
- geological formations or structures to store carbon dioxide, or carry out related activities; and
- (b) creating a regulatory system for the carrying out of activities relating to GHG authorities.
- (4) Other purposes of this Act are to ensure the following for the carrying out of the activities—
- (a) minimisation of conflict with other land uses;
 - (b) constructive consultation with people affected by the activities;
 - (c) appropriate compensation for owners or occupiers adversely affected by the activities;
 - (d) responsible land and resource management.

4 Facilitation of Act by Petroleum and Gas (Production and Safety) Act 2004

The *Petroleum and Gas (Production and Safety) Act 2004* (the *P&G Act*) also facilitates the operation of this Act by—

- (a) providing for survey licences under that Act to be able to be granted for potential GHG stream pipelines; and
- (b) providing for pipeline licences under that Act to be able to be granted for GHG streams; and
- (c) applying chapter 9 of that Act (the *P&G Act safety provisions*) to particular authorised activities for GHG authorities; and
- (d) applying its provisions about investigations and some of its provisions about enforcement to authorised activities for GHG authorities.

5 Act binds all persons

- (1) This Act binds all persons, including the State and to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

[s 6]

- (2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act.

6 Application of Act to coastal waters of the State

- (1) This Act applies to the coastal waters of the State as if the coastal waters of the State were part of the State.
- (2) However, this Act does not apply to the adjacent area under the *Petroleum (Submerged Lands) Act 1982*.

Note—

The definition of *the adjacent area* in the *Petroleum (Submerged Lands) Act 1982*, section 4(1) is extended for pipelines under that Act, part 3, division 4. The provisions effectively cover pipelines in the coastal waters of the State.

7 Relationship with Nature Conservation Act 1992

This Act is subject to the *Nature Conservation Act 1992*, sections 27 and 70QA.

Editor's note—

Nature Conservation Act 1992, sections 27 (Prohibition on mining and GHG storage activities) and 70QA (Prohibition on mining and GHG storage activities in forest reserves)

8 Relationship with Geothermal Act and principal mining and petroleum Acts

The relationship between this Act and the following Acts is provided for under chapter 4, parts 2 to 8 and—

- (a) for the Geothermal Act—chapter 4, part 5 of that Act;
- (b) for the Mineral Resources Act—part 7AAC of that Act;
- (c) for the 1923 Act—section 40(1A) and part 6FA of that Act;
- (d) for the P&G Act—chapter 3A of that Act.

9 Act does not affect other rights or remedies

- (1) Subject to sections 269 and 425 this Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.

Editor's note—

sections 269 (Responsibility for well after decommissioning), and 425 (Protection from liability for particular persons)

- (2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.
- (3) In addition, a breach of an obligation under this Act does not of itself give rise to an action for breach of statutory duty or another civil right or remedy.
- (4) This Act does not limit a court's powers under the *Penalties and Sentences Act 1992* or another law.

10 Native title

- (1) This section applies for applying this Act to land where native title exists.
- (2) A native title holder within the meaning of the *Native Title Act 1993* (Cwlth), section 224 has the procedural and other rights that the holder has under that Act.
- (3) Subsection (2) applies despite any other provision of this Act.

Part 3 Interpretation

Division 1 Dictionary

11 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

Division 2 Key definitions

12 What is a *GHG stream*

- (1) A *GHG stream* is a stream of carbon dioxide or a substance that overwhelmingly consists of carbon dioxide.
- (2) The stream may be in a gaseous or liquid state.

Note—

The lawful use by a GHG tenure holder of any particular GHG stream for injection or GHG stream storage is subject to requirements under chapters 2 and 3 and to approval of the relevant work program or development plan.

13 What is a *GHG stream storage site*

A *GHG stream storage site* is—

- (a) the spatial extent of an underground geological formation or structure that is suitable to store a GHG stream (a *GHG storage reservoir*); and
- (b) the site at which a GHG stream is or may be injected into the GHG storage reservoir.

14 What is *GHG stream storage*

- (1) *GHG stream storage* is—

-
- (a) the process of injecting a GHG stream into a GHG storage reservoir for the purpose of storing the injected GHG stream in the reservoir; and
 - (b) monitoring the behaviour of the injected GHG stream in the reservoir.
- (2) To remove any doubt, it is declared that injecting a GHG stream for the purpose of enhanced petroleum recovery authorised under the 1923 Act or the P&G Act is not GHG stream storage.

15 What is *GHG storage exploration*

GHG storage exploration is carrying out an activity for the purpose of finding GHG stream storage sites.

16 What is *GHG storage injection testing*

GHG storage injection testing is the evaluation or testing of an underground geological formation or structure for GHG stream storage by injecting carbon dioxide or water into it.

17 What is a *GHG stream pipeline*

- (1) A *GHG stream pipeline* is a pipe or system of pipes for transporting a GHG stream for GHG stream storage.
- (2) A reference to a *GHG stream pipeline* includes—
 - (a) a part of the pipeline; and
 - (b) a thing connected to or associated with the pipeline that is necessary for its operation.

Examples of things that may be included in a reference to a pipeline—

- meter stations, scraper stations, valve stations, pumping stations or compressor stations
- plant and equipment, machinery and tanks
- corrosion protection apparatus
- communications equipment and towers

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18 Types of authority under Act

- (1) The types of authority under this Act are—
 - (a) a ***GHG exploration permit*** (also called a ***GHG permit***)—
 - (i) granted under section 40; or
Note—
See also sections 431 (Conversion of Zerogen’s P&G Act ATPs) and 432 (New GHG permit for Zerogen).
 - (ii) continued in force under section 95 or 116; or
 - (iii) renewed under section 96; and
 - (b) a ***GHG injection and storage lease*** (also called a ***GHG lease***) granted under section 117 or 130; and
 - (c) a ***GHG injection and storage data acquisition authority*** (also called a ***GHG data acquisition authority***) granted under section 235.
- (2) GHG permits and GHG leases are collectively referred to as a ***GHG tenure***.
- (3) All authorities under this Act are collectively referred to as a ***GHG authority***.

19 Who is an *eligible person*

An *eligible person* is—

- (a) an adult; or
- (b) a company or a registered body under the Corporations Act; or
- (c) a government owned corporation.

20 What are the *conditions* of a GHG authority

- (1) The *conditions* of a GHG authority are—
 - (a) the conditions stated in it from time to time; and

-
- (b) the GHG authority holder's obligations under chapters 2 to 5; and
 - (c) any condition of the GHG authority under chapters 2 to 5; and
 - (d) a condition that the holder must ensure each person acting for the holder who carries out an authorised activity for the GHG authority complies with its conditions to the extent they apply to the carrying out of the activity.

Note—

For who may carry out an authorised activity for the holder, see section 338 (Who may carry out authorised activity for GHG authority holder).

- (2) A condition mentioned in subsection (1)(b) or (c) is a ***mandatory condition*** of the GHG authority.

21 What are the *provisions* of a GHG authority

- (1) A reference in this Act to a GHG authority includes a reference to its provisions.
- (2) A reference in this Act to the provisions of a GHG authority is a reference to its mandatory or other conditions and anything written in it.

22 What is an *authorised activity* for a GHG authority

An ***authorised activity***, for a GHG authority, is an activity that its holder is under this Act or the authority, entitled to carry out in relation to the authority.

Notes—

- 1 The provisions of the GHG authority may restrict the carrying out of authorised activities. See sections 41, 97, 120, 236 and 379(3).
- 2 The carrying out of authorised activities is subject to the restrictions and the holder's rights and obligations under chapters 2 to 5. See section 337.

[s 23]

23 What is a *GHG storage activity*

A *GHG storage activity* is any authorised activity for any GHG authority.

24 What is a *work program* for a GHG permit

- (1) The *work program* for a GHG permit is its current initial or later work program approved under chapter 2, part 4 as amended from time to time under that part.
- (2) For subsection (1), the work program is current if the period to which the program applies has started and not ended.

25 What is a *development plan* for a GHG lease

- (1) The *development plan* for a GHG lease is its current initial or later development plan approved under chapter 3, part 5 as amended from time to time under that part.
- (2) For subsection (1), the development plan is current if the period to which the plan applies has started and has not ended.

26 Graticulation of earth's surface into *blocks* and *sub-blocks*

- (1) A *block* is the land resulting from a notional division of the earth's surface—
 - (a) by 2 meridians of longitude 5 minutes apart, each meridian being a multiple of 5 minutes of longitude from the meridian of Greenwich; and
 - (b) by 2 parallels of latitude 5 minutes apart, each parallel being a multiple of 5 minutes of latitude from the equator.
- (2) A *sub-block* is the land resulting from a notional division of a block into 25 areas, each sub-block being bounded by 2 meridians 1 minute of longitude apart and 2 parallels of latitude 1 minute of latitude apart.

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- (3) Each block and sub-block must be identified in the way approved by the chief executive.

Part 4 State ownership of GHG storage reservoirs

27 GHG storage reservoirs the property of the State

- (1) All GHG storage reservoirs in land in the State are and are taken always to have been the property of the State.
- (2) To remove any doubt, it is declared that—
- (a) a person does not acquire any property in a GHG storage reservoir or petroleum in it only because the person creates or discovers the reservoir; and

Note—

For other provisions about the ownership of petroleum, see the P&G Act, sections 26 to 28 and chapter 2, part 6, division 3.

- (b) subsection (1) applies whether or not the land is freehold or other land.
- (3) This section applies despite any other Act, grant, title or other document in force from the commencement of this section.
- (4) In this section—
- the State* does not include any of the adjacent area under the *Petroleum (Submerged Lands) Act 1982*.

28 Reservation in land grants

- (1) This section applies to each grant under another Act of a right relating to land.
- (2) This section applies whether the grant was made before or after the commencement of this section.

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- (3) The grant is taken to contain a reservation to the State of—
- (a) all GHG storage reservoirs in the land, whenever created; and
 - (b) the exclusive right to do the following in relation to the land—
 - (i) to enter and carry out any authority-related activity;
 - (ii) to authorise under the provisions of this Act or another Act others to carry out any authority-related activity;
 - (iii) to regulate under the provisions of this Act or another Act authority-related activities carried out by others.

Note—

See however, section 420 (Provision for entry by State to carry out authority-related activity).

- (4) In this section—

authority-related activity means any activity that may be carried out under this Act by the holder of any GHG authority.

grant, of a right, includes an authority, lease, licence, permit or other instrument of tenure, however called.

Chapter 2 GHG exploration permits

Notes—

- 1 For the requirement to have a GHG tenure, see section 386.
- 2 Chapter 4 imposes requirements for and restrictions on the granting of, and restrictions on authorised activities that may be carried out under, particular GHG tenures. See section 182.

Part 1 Key authorised activities

29 Operation of pt 1

This part provides for the key authorised activities for a GHG permit.

Notes—

- 1 For other authorised activities, see chapter 5, part 7, division 4 (Access to private land outside area of GHG authority) and part 12 (General provisions for conditions and authorised activities).
- 2 For general restrictions on authorised activities, their relationship with owner's and occupiers' rights and who may carry out authorised activities for a GHG authority holder, see chapter 5, part 12, division 3.

30 Principal authorised activities

The GHG permit holder may carry out the following activities in the permit's area—

- (a) GHG storage exploration;
- (b) evaluating the feasibility of GHG stream storage, including for example, by GHG storage injection testing.

31 Incidental activities

- (1) The GHG permit holder may carry out any other activity (an *incidental activity*) in the permit's area if carrying it out is reasonably necessary for or is incidental to GHG storage exploration.

Examples of incidental activities—

- 1 constructing or operating facilities, plant or works, including for example, communication systems, compressors, powerlines, pumping stations, reservoirs, roads, evaporation or storage ponds and tanks

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- 2 constructing or using temporary structures or structures of an industrial or technical nature, including for example, mobile and temporary camps
- (2) However, constructing or using a structure other than a temporary structure, for office or residential accommodation is not an incidental activity.

Note—

For development generally, see the *Integrated Planning Act 1997*, chapter 3 (Integrated development assessment system (IDAS)) and schedule 9 (Development that is exempt from assessment against a planning scheme).

Part 2 Obtaining GHG permits

Division 1 Preliminary

32 Operation of pt 2

- (1) This part provides for a process for the granting of GHG permits by competitive tender.
- (2) To remove any doubt, it is declared that a GHG permit can only be granted under this part.

Division 2 Competitive tenders

33 Call for tenders

- (1) The Minister may by gazette notice invite tenders for a GHG permit (a *call for tenders*).
- (2) The call must state—
 - (a) the day and time by which tenders in response to it must be made (the *closing time* for the call); and

- (b) any criteria (*special criteria*) other than the work program criteria and capability criteria proposed to be used to decide whether to grant the GHG permit or to decide its provisions
- (3) The call may state other relevant matters, including for example, matters relevant to the work program criteria and capability criteria.

34 Right to tender

- (1) Any person may by a tender made under section 35, tender for a proposed GHG permit the subject of a call for tenders.

Note—

See however section 40(2) (Deciding whether to grant GHG permit).

- (2) However, a tender can not be made—
 - (a) after the closing time for the call; or
 - (b) for only part of the proposed GHG permit's area.

35 Requirements for making tender

A tender for a GHG permit must—

- (a) be made to the Minister in the approved form; and
- (b) include—
 - (i) a statement about how and when the tenderer proposes to consult with and keep informed each owner and occupier of private or public land on which authorised activities for the proposed GHG permit are or are likely to be carried out; and
 - (ii) a proposed work program that complies with the initial work program requirements; and
 - (iii) a verification statement that complies with section 36; and

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- (c) state that the applicant agrees to, as soon as practicable after the grant of the GHG permit to the applicant, give each of the owners or occupiers a notice—
 - (i) describing the activities proposed to be carried out on the land; and
 - (ii) stating where and when the activities will be carried out; and
- (d) be accompanied by the fee prescribed under a regulation.

36 Requirements for verification statement

For section 35(b)(iii), a verification statement must—

- (a) be made by an appropriately qualified independent person; and
- (b) verify that in the person's opinion the tenderer has—
 - (i) the financial and technical resources to carry out GHG storage exploration under the proposed GHG permit; and
 - (ii) the ability to manage the GHG storage exploration.

37 Right to terminate call for tenders

- (1) The Minister may by gazette notice terminate a call for tenders at any time before deciding whether to grant a GHG permit to a person who has made a tender in response to the call.
- (2) All tenders in response to the call lapse when the call is terminated.
- (3) No amount, whether by way of compensation, reimbursement or otherwise, is payable by the State to any person for or in connection with the termination.

Division 3 Deciding tenders

38 Process for deciding tenders

Subject to section 42, any process the Minister considers appropriate may be used to decide a call for tenders, including for example, by a process appointing a preferred tenderer on the tenders made in response to the call.

39 Provisions for preferred tenderers

- (1) The Minister may require a preferred tenderer for the call for tenders to—
 - (a) pay any amounts necessarily incurred or to be incurred to enable the GHG permit to be granted; and
 - (b) to do all or any of the following within a stated reasonable period—
 - (i) pay the annual rent for the first year of the GHG permit;
 - (ii) give under section 271, security for the GHG permit.
- (2) If a preferred tenderer does not—
 - (a) comply with a requirement under subsection (1); or
 - (b) do all things reasonably necessary to allow a GHG permit to be granted to the tenderer;the Minister may appoint another tenderer to be the preferred tenderer.

40 Deciding whether to grant GHG permit

- (1) The Minister may, after the closing time for the call for tenders—
 - (a) grant a GHG permit to 1 tenderer; or
 - (b) refuse to grant any GHG permit.

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- (2) However—
 - (a) before deciding to grant the GHG permit, the Minister must decide whether to approve the applicant's proposed initial work program for the permit; and
 - (b) the Minister can not grant the GHG permit unless—
 - (i) the tenderer is an eligible person; and
 - (ii) the proposed program has been approved; and
 - (iii) a relevant environmental authority has been issued.

41 Provisions of GHG permit

- (1) Each GHG permit must state its term and area.
- (2) The term—
 - (a) must be for at least the required program period for the initial work program for the GHG permit under the call for tenders; but
 - (b) must end no later than 12 years after the GHG permit takes effect.
- (3) The GHG permit may also state—
 - (a) conditions or other provisions of the GHG permit other than conditions or provisions that are—
 - (i) inconsistent with the mandatory conditions for GHG permits; or
 - (ii) the same as or substantially the same as or inconsistent with any relevant environmental condition; and
 - (b) the day it takes effect; and
 - (c) GHG permit's relinquishment days.
- (4) However, the provisions of the GHG permit may exclude or restrict the carrying out of an authorised activity for the permit.

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- (5) The day of effect must not be before the day the GHG permit is granted.
 - (6) If no day of effect is stated, the GHG permit takes effect on the day it is granted.
 - (7) The first relinquishment day must not be later than 4 years after the day the GHG permit is to take effect.
 - (8) The second and any later relinquishment days must not be later than 4 years after the previous relinquishment day.
 - (9) If relinquishment days are not stated, they are taken to be—
 - (a) the day that is the fourth anniversary of the GHG permit's day of effect; and
 - (b) each day during its term that is the end of a 4 yearly interval after the day of effect.

42 Criteria for decisions

- (1) In deciding whether to grant a GHG permit or deciding its provisions the Minister must consider—
 - (a) any special criteria; and
 - (b) the applicant's proposed initial work program; and
 - (c) the extent to which the Minister is of the opinion that the tenderer is capable of carrying out authorised activities for the GHG permit, having regard to the tenderer's—
 - (i) financial and technical resources; and
 - (ii) ability to manage GHG storage exploration.
- (2) The matters mentioned in subsection (1)(c) are the *capability criteria*.
- (3) A person *satisfies* the capability criteria if the Minister forms the opinion mentioned in subsection (1)(c).

43 Notice to unsuccessful tenderers

After a call for tenders has been decided, the Minister must

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give each tenderer not granted the GHG permit notice of the decision.

Part 3 Area provisions

44 Area of GHG permit

- (1) This section provides for the area of a GHG permit.
- (2) The area does not include excluded land for the GHG permit.
- (3) Unless the Minister otherwise decides, the area must form a single parcel of land.
- (4) The area must not include any of the following (*unavailable land*)—
 - (a) land in the area of another GHG tenure;
 - (b) excluded land for a GHG tenure;
 - (c) land that a regulation prescribes as land over which a GHG permit can not be granted.
- (5) The area may include a part of a block only if the part is all areas within the block that are left after taking away all unavailable land within the block (a *residual block*).
- (6) The area must be no more than 100 blocks or residual blocks, in any combination.

45 References to sub-blocks of GHG permit

- (1) This section applies if a GHG permit states that its area includes land within a block without including or excluding any particular sub-block.
- (2) The reference to the block is a reference to all sub-blocks within the block to the extent they do not consist of unavailable land.

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- (3) To remove any doubt, it is declared that if land within any of the sub-blocks ceases to be unavailable land, the cessation itself does not cause the land to be within the permit's area.

46 Minister's power to decide excluded land

- (1) The Minister may decide excluded land for a GHG permit or proposed GHG permit.
- (2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—
- (a) grant or renew the GHG permit; or
 - (b) approve any later work program for the GHG permit.
- (3) However, excluded land can not be a whole block.
- (4) Excluded land may be described in a way the Minister considers appropriate, including for example, by area or by reference to a stated type of land.
- (5) Land ceases to be excluded land for a GHG permit if—
- (a) the block in which the land is located is relinquished or for any other reason ceases to be in the permit's area; or
 - (b) a GHG lease is granted over any of the GHG permit's area and the land is excluded land for the lease.

47 Minister may add excluded land

- (1) The Minister may amend a GHG permit by adding excluded land for the GHG permit to its area only if—
- (a) the GHG permit as amended complies with section 44; and
 - (b) the GHG permit holder consents.
- (2) If land mentioned in subsection (1) is added to the GHG permit's area the land ceases to be excluded land for the permit.

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- (3) The Minister may amend the provisions of the GHG permit in a way that reflects the inclusion of the excluded land.
- (4) Also, the Minister may give the GHG permit holder a notice—
 - (a) withdrawing from a stated day, the approval of the work program for the GHG permit; and
 - (b) directing the holder to give the Minister a proposed later work program for the GHG permit that—
 - (i) complies with the later work program requirements; and
 - (ii) changes the work program for the GHG permit to reflect the inclusion of the excluded land.
- (5) The amended provisions of the GHG permit or the proposed later work program must not be—
 - (a) inconsistent with the mandatory conditions for GHG permits; or
 - (b) the same as or substantially the same as or inconsistent with any relevant environmental condition.

48 Area of GHG permit reduced on grant of GHG lease

- (1) Land ceases to be included in the area of a GHG permit if a GHG lease is granted to the permit holder over the land.
- (2) If a GHG lease is granted to the GHG permit holder over all of the area of a GHG permit, the permit ends.

49 Effect of ending of declaration of potential storage area

- (1) This section applies if—
 - (a) all or part of the area of a GHG permit is a potential storage area; and

-
- (b) the declaration of the potential storage area ends more than 12 years after the GHG permit originally took effect.
 - (2) If the declaration applied to a part of the GHG permit's area, the part ceases to be included in the area.
 - (3) If the declaration applies to all of the GHG permit's area, the permit ends.

Part 4 Work programs

Division 1 Function and purpose

50 Function and purpose

- (1) The work program for a GHG permit gives detailed information about the nature and extent of activities to be carried out under the permit.
- (2) The purposes of giving the information are to—
 - (a) allow resource management decisions to be made; and
 - (b) ensure appropriate development of the GHG permit.

Division 2 Requirements for proposed initial work programs

51 Operation of div 2

This division provides for requirements (the *initial work program requirements*) for a proposed work program for a proposed GHG permit.

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52 Program period

- (1) The proposed program must state its period.
- (2) The period must be the same as the required period under the relevant call for tenders.

53 General requirements

- (1) The proposed program must provide for all of the following—
 - (a) an overview of the activities proposed to be carried out under the proposed GHG permit during all of its term;
 - (b) for each year of the program period—
 - (i) the extent and nature of GHG storage exploration proposed to be carried out during the year; and
 - (ii) generally where the activities are proposed to be carried out; and
 - (iii) the estimated cost of the activities;
 - (c) maps that show where the activities are proposed to be carried out;
 - (d) the composition of GHG streams proposed to be injected under the GHG permit;
 - (e) a description of any pipeline land for the GHG permit;
 - (f) reasons why the program is considered appropriate;
 - (g) another matter prescribed under a regulation.
- (2) The proposed program may include any other information relevant to the work program criteria.
- (3) The composition of GHG streams to be injected under the proposed GHG permit must comply with section 83.
- (4) A regulation may impose requirements about the form of the work program.
- (5) In this section—

year, of the program period, means—

- (a) the period starting on the day the program period starts and ending on the first anniversary of that day; and
- (b) each subsequent period of 12 months or less during the program period starting on each anniversary of that day and ending on—
 - (i) the next anniversary of that day; or
 - (ii) if the program period ends before the next anniversary—the day the program period ends.

54 Water issues

- (1) In preparing the proposed work program, the proposed GHG permit holder must have regard to potential groundwater issues.
- (2) The proposed work program must include a plan for the treatment and disposal of any water taken or that may be taken because of the carrying out of authorised activities for the proposed GHG permit.

Division 3 Approval of proposed initial work programs

Note—

For the requirement for approval of an initial work program, see section 40 (Deciding whether to grant GHG permit).

55 Criteria

- (1) In deciding whether to approve a proposed initial work program the Minister must consider—
 - (a) the potential of the proposed area of the GHG permit for GHG storage exploration; and

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- (b) the extent and nature of and when and where the tenderer proposes to carry out the proposed GHG storage exploration; and
 - (c) any relevant authorisation required under the Water Act.
- (2) The matters mentioned in subsection (1) are the *work program criteria*.

56 Verification may be required

- (1) The Minister may by notice require the applicant to give the Minister within a stated reasonable period a document made by an appropriately qualified independent person that verifies—
- (a) an assessment of data supplied in the proposed initial work program; or
 - (b) the source of the data; or
 - (c) the work done for the proposed program.
- (2) If the applicant does not comply with the requirement, the Minister may refuse to approve the proposed program.
- (3) The applicant must pay any costs incurred in complying with the requirement.

57 Referral to Water Act Minister

The Minister can not approve the proposed work program unless—

- (a) the Minister has given the Water Act Minister a copy of the proposed work program; and
- (b) the Water Act Minister has approved the proposed work program to the extent it relates to potential groundwater issues.

Division 4 Requirements for proposed later work programs

58 Operation of div 4

This division provides for requirements (the *later work program requirements*) for a proposed later work program for a GHG permit.

Note—

For the requirements to give a proposed later work program, see sections 91 (Obligation to give proposed later work program), 138 (Minister may add excluded land) and 379 (Types of noncompliance action that may be taken).

59 General requirements

The proposed program must—

- (a) other than for the program period, comply with the initial work program requirements; and
- (b) state the extent to which the current work program for the GHG permit has been complied with; and
- (c) if there have been any amendments to the GHG permit or the current work program, state—
 - (i) whether the changes have been incorporated in the proposed program; and
 - (ii) any effect the changes have on the proposed program; and
- (d) state the effect of the discovery of any GHG stream storage site on the proposed program.

60 Program period

- (1) The proposed program must state its period.
- (2) The period must not be longer than—

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- (a) if the term of the rest, or the renewed term, of the GHG permit is less than 4 years—the rest of its term or renewed term; or
 - (b) if the term of the rest, or the renewed term, of the GHG permit is 4 years or more, the following—
 - (i) generally—4 years from the start of the period;
 - (ii) if the Minister approves a longer period—the longer period.
- (3) However, the Minister can not approve a period longer than the rest of the term or renewed term of the GHG permit.

61 Implementation of evaluation program for potential storage area

If under section 103, an evaluation program is taken to be an additional part of the existing work program for the GHG permit, the proposed program must include work necessary to implement the evaluation program for the period of that program.

Division 5 Approval of proposed later work programs

62 Application of div 5

This division applies if, under this Act, a proposed later work program is given to the Minister for approval.

63 GHG permit taken to have work program until decision on whether to approve proposed work program

- (1) This section applies until—
 - (a) if the approval is given—the holder is given notice of the approval; or
 - (b) if the approval is refused—when the refusal takes effect.

-
- (2) Despite the ending of the program period for the current work program for the GHG permit—
 - (a) the GHG permit is taken to have a work program; and
 - (b) the holder may carry out any authorised activity for the GHG permit.

64 Deciding whether to approve proposed program

- (1) The Minister may approve or refuse to approve the proposed program.
- (2) In deciding whether to approve the proposed program the Minister must consider each of the following—
 - (a) the work program criteria and capability criteria and any special criteria that applied for deciding the application for the GHG permit;
 - (b) the extent to which the current work program has been complied with;
 - (c) any amendments made to the GHG permit or its current work program and the reasons for the changes;
 - (d) any GHG storage viability report or independent viability assessment for the GHG permit.
- (3) Also, if the GHG permit was granted in response to a tender, any other work program proposed by other tenderers for the permit must be considered.
- (4) However, subsection (3) applies only to the extent the other program includes the period of the proposed plan.

65 Steps after, and taking effect of, decision

- (1) If the Minister decides to approve the proposed later work program, the Minister must give the holder notice of the decision.

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- (2) If the Minister decides to refuse to approve the later work program, the Minister must give the holder an information notice about the decision.
- (3) An approval takes effect when the holder is given the notice or if the notice states a later day of effect, on that later day.
- (4) A refusal does not take effect until the end of the appeal period for the decision to refuse.

Division 6 Amending work programs

66 Restrictions on amending work program

- (1) A GHG permit holder may amend the work program for the permit only if—
 - (a) an application for approval of the amendment has been made under this division and the amendment has been approved under this division; and
 - (b) if the amendment is to extend the period of the work program—the requirements under subsection (2) have been complied with.
- (2) For subsection (1)(b), the requirements are each of the following—
 - (a) if the work program is the initial work program for the GHG permit—the Minister must be satisfied the work program needs to be amended for a reason beyond the holder's control;
 - (b) the period of the work program, or any earlier work program for the GHG permit, must not have previously been extended;
 - (c) the extension can not be for a term that ends later than—
 - (i) 1 year after the current period of the work program; or

-
- (ii) 12 years after the GHG permit originally took effect;
 - (d) within 3 months before the making of the application—
 - (i) a person (the *designated person*) became a holder of the GHG permit; or
 - (ii) a person (also the *designated person*) obtained registration of a transfer of a share in the GHG permit;
 - (e) the share or proposed share of the designated person in the GHG permit is at least 50%;
 - (f) the designated person is not under the Corporations Act, section 64B, an entity connected with another person who is a holder of the GHG permit.

67 Applying for approval to amend

- (1) A GHG permit holder may apply for approval to amend the work program for the permit.
- (2) However, the application can not be made less than 20 business days before the end of the period stated in the work program for carrying out work under the program.
- (3) Subsection (2) does not apply if the Minister is satisfied the work program needs to be amended for a reason beyond the holder's control.

68 Requirements for making application

The application must be—

- (a) made to the Minister in the approved form; and
- (b) accompanied by the fee prescribed under a regulation.

69 Deciding application

- (1) If the proposed amendment—

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- (a) does not relate to the initial work program for the GHG permit; and
 - (b) is to substitute the carrying out of an authorised activity (the *original activity*) with another authorised activity;
the Minister may approve the amendment only if satisfied the other activity is at least of an equivalent use for GHG storage exploration as the original activity.
- (2) If the application is to extend the period of the work program for the GHG permit, the Minister may approve the amendment only if satisfied—
- (a) the requirements under section 66(2) have been complied with; and
 - (b) the designated person mentioned in section 66(2) is likely to provide additional financial or technical resources for the GHG permit; and
 - (c) the work program will be finished within the period of the extension.

Note—

For additional provisions about relinquishment if the period is extended, see sections 72(1)(c) and 90.

- (3) Otherwise, the Minister may approve the amendment only if satisfied it is necessary because of a circumstance—
- (a) not related to—
 - (i) the applicant's financial or technical resources or ability to manage GHG storage exploration; or
 - (ii) the results of exploration; and
 - (b) the happening of which is or was beyond the applicant's control; and
 - (c) that could not have been prevented by a reasonable person in the applicant's position.

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- (4) Also, if the amendment is approved under subsection (3), any relinquishment day for the GHG permit may be deferred for a period relating to a circumstance mentioned in subsection (3).
 - (5) A deferral under subsection (4)—
 - (a) can not be for longer than 12 years after the GHG permit took effect; and
 - (b) does not defer any later relinquishment day for the GHG permit.
 - (6) If under this section an amendment is approved, a condition may be imposed on the GHG permit requiring its holder to relinquish by a notice to the chief executive at least a stated percentage of the permit's area on or before a stated day.

70 Steps after, and taking effect of, decision

- (1) If the Minister decides to approve the proposed amendment, the Minister must give the holder notice of the decision.
- (2) If the Minister decides to refuse to approve the proposed amendment, the Minister must give the applicant an information notice about the decision.
- (3) The refusal takes effect when the holder is given the notice or if the notice states a later day of effect, on that later day.

Part 5 Key mandatory conditions

Division 1 Preliminary

71 Operation of pt 5

This part provides for particular mandatory conditions for GHG permits.

Division 2 Standard relinquishment condition and related provisions

72 Standard relinquishment condition

- (1) It is a condition (the *relinquishment condition*) of each GHG permit that its holder must relinquish part of its area as provided for under this division—
 - (a) on or before each of its relinquishment days; and
 - (b) if section 76(3) applies—on the day provided for under that subsection; and
 - (c) if under part 4, division 6, the period of the work program for the GHG permit has been extended—the day on which the extended period ends.
- (2) However, if under section 69(4), a relinquishment day for the GHG permit (the *original day*) is deferred for a stated period, for the relinquishment condition—
 - (a) the relinquishment that was required on or before the original day is taken to have been deferred until the end of the stated period; but
 - (b) the relinquishments required under the relinquishment condition on any later relinquishment days for the GHG permit must be made as if the deferral has not been granted.
- (3) A relinquishment required under the relinquishment condition—
 - (a) must be made by notice to the chief executive (a *relinquishment notice*); and
 - (b) takes effect on the day after lodgment under paragraph (a).
- (4) This section does not prevent the holder from relinquishing by relinquishment notice more than the part provided for under this division.

73 Consequence of failure to comply with relinquishment condition

- (1) If the holder of a GHG permit does not comply with the relinquishment condition, the Minister must give the holder a notice requiring the holder to comply with the condition within 20 business days after the giving of the notice.
- (2) If the holder does not comply with the requirement, the GHG permit is cancelled.

74 Part usually required to be relinquished

- (1) This section applies for the relinquishment for—
 - (a) each relinquishment day for the GHG permit; and
 - (b) any other day mentioned in section 72(1)(b) or (c) that applies to the GHG permit.
- (2) The relinquishment must have the effect that by the day at least 8.33% of the original sub-blocks of the permit have been relinquished for each year that has passed since the GHG permit originally took effect.
- (3) This section is subject to sections 76 and 77.

75 Sub-blocks that can not be counted towards relinquishment

- (1) The following can not be counted as sub-blocks relinquished for the relinquishment condition—
 - (a) sub-blocks relinquished under a condition imposed under section 69(6);
 - (b) sub-blocks in an area that under section 48, have ceased to be included in the GHG permit;
 - (c) the mere declaration of the sub-blocks as a potential storage area for the GHG permit;
 - (d) sub-blocks the subject of an application for a GHG lease or potential storage area;

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- (e) sub-blocks relinquished under a penalty relinquishment.
- (2) To remove any doubt, it is declared that a potential storage area can be relinquished and can be counted as an area relinquished for the relinquishment condition.
- (3) In this section—
 - penalty relinquishment* means a relinquishment that is—
 - (a) made under section 90 or under a requirement under section 379(1)(b); and
 - (b) more than the sub-blocks required to be relinquished under the relinquishment condition.

76 Adjustments for sub-blocks that can not be counted

- (1) This section applies for a relinquishment day if after taking away all sub-blocks that under section 75 can not be counted for the relinquishment condition, the balance of the sub-blocks of the GHG permit is less than the sub-blocks required to be relinquished under section 74.
- (2) The relinquishment condition is taken to have been complied with if the GHG permit holder gives a relinquishment notice for all of the balance.
- (3) However, if—
 - (a) a sub-block not counted for the relinquishment condition was the subject of an application for a GHG lease or potential storage area; and
 - (b) the result of the application is that it is refused;the GHG permit holder must within 20 business days after the appeal period for the decision to refuse give a relinquishment notice for that sub-block.

77 Adjustment for particular potential storage areas

If the only way to comply with the relinquishment condition is to relinquish all or part of a potential storage area for the GHG

permit, the relinquishment condition is taken to be complied with if all remaining original sub-blocks of the permit are relinquished.

78 Relinquishment must be by blocks

- (1) A relinquishment under the relinquishment condition can only be by blocks.
- (2) However, if a block contains an area that, under section 75 can not be counted as a relinquishment, subsection (1) is complied with if all of the rest of the land within the block is relinquished.

79 Ending of GHG permit if all of its area relinquished

If all of the area of a GHG permit is relinquished, the permit ends.

Division 3 Other mandatory conditions

80 Compliance with test plan for GHG storage injection testing

- (1) A GHG permit holder may carry out GHG storage injection testing only in accordance with the following—
 - (a) a test plan for that purpose approved by the Minister;
 - (b) all conditions of the approval.
- (2) The holder may ask the Minister to approve a test plan proposed by the holder.
- (3) The proposed test plan must comply with any requirements prescribed under a regulation.
- (4) The Minister may impose conditions on the granting of the approval.

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- (5) If the Minister decides to refuse to approve the proposed test plan or to impose conditions on the granting of the approval, the Minister must give the holder an information notice about the decision.

81 Restriction on substances that may be used for GHG storage injection testing

A GHG permit holder can not use a substance other than a GHG stream or water for injection for GHG storage.

82 Restriction on substances that may be used for GHG stream storage

A GHG permit holder can not use a substance other than a GHG stream for GHG stream storage.

83 Restriction on GHG streams that may be used

A GHG permit holder may use a GHG stream for GHG storage injection testing or GHG stream storage only if it consists only of carbon dioxide and—

- (a) a substance incidentally derived from—
- (i) the process called carbon dioxide capture, transport and geological storage, also called carbon capture and storage; or
 - (ii) GHG storage; or
- (b) a detection agent prescribed under a regulation at the rate or concentration prescribed under a regulation.

Note—

A stream is a GHG stream only if it is a stream of carbon dioxide or a substance that overwhelmingly consists of carbon dioxide. See section 12 (What is a *GHG stream*).

84 Water Act authorisation required for taking or interference with water

A GHG permit holder can not take or interfere with water as defined under the Water Act unless the taking or interference is authorised under that Act.

Note—

For relevant Water Act provisions, see sections 19 and 808 of that Act.

85 Obligation to consult with particular owners and occupiers

- (1) A GHG permit holder must consult or use reasonable endeavours to consult with each owner and occupier of private or public land on which authorised activities for the permit are or are likely to be carried out.
- (2) The consultation must be about the carrying out of authorised activities for the GHG permit (including for example, crossing access land for the permit) to the extent they relate to the owners and occupiers.
- (3) The consultation must be carried out in the way and at the times—
 - (a) provided for in the GHG permit; or
 - (b) if the GHG permit does not provide for how the consultation must be carried out—approved by the Minister.
- (4) This section does not limit chapter 5, parts 7 and 8.
- (5) A failure to comply with this section does not prevent authorised activities for the GHG permit from being carried out.

86 Annual rent

- (1) A GHG permit holder must pay the State the annual rent as prescribed under a regulation.

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- (2) The annual rent must be paid in the way, and on or before the day prescribed under a regulation.

87 Civil penalty for nonpayment of annual rent

- (1) If a GHG permit holder does not pay the annual rent as required under section 86, the holder must also pay the State a civil penalty.
- (2) The amount of the penalty is 15% of the rent.
- (3) The penalty—
 - (a) must be paid on the day after the last day for payment of the rent; and
 - (b) is still payable even if the holder later pays the rent.

Note—

See also section 372 (Interest on amounts owing to the State).

88 Requirement to have work program

The holder of a GHG permit must have a work program for the permit.

89 Compliance with GHG storage exploration activities in work program

A GHG permit holder must carry out the GHG storage exploration activities proposed in the permit's work program.

90 Penalty relinquishment if work program not finished within extended period

- (1) If—
 - (a) under part 4, division 6, the period of the work program for a GHG permit has been extended; and
 - (b) the work program is not finished on or before the day on which the extended period ends;

its holder must relinquish a part of the original sub-blocks of the GHG permit that the Minister is satisfied corresponds to the amount of the work under the work program that was not finished.

- (2) The holder must give the chief executive written notice of the relinquishment within 20 business days after the end of the extended period.
- (3) If the holder does not comply with subsection (2), the Minister may take action under section 379(1)(b).

91 Obligation to give proposed later work program

- (1) This section imposes an obligation on a GHG permit holder to give the Minister a proposed later work program for the permit.

Notes—

- 1 For approval of the proposed program, see part 4, division 5.
 - 2 If the holder wishes to renew the GHG permit, a proposed later work program must be included in the renewal application. See section 94(1).
- (2) The obligation is complied with only if the proposed later work program—
 - (a) complies with the later work program requirements; and
 - (b) is accompanied by the relevant fee.
 - (3) A proposed later work program must be given to the Minister at least 40 but no more than 100 business days before the end of the program period for the current work program for the GHG permit (the *current work program period*).
 - (4) However, if before the end of the current work program period a decision is made to refuse to approve a proposed later work program given under subsection (3), the holder may within the period give another proposed later work program.
 - (5) If the holder does not give the Minister any proposed later work program before the end of the current work program

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period or if subsection (4) applies and the holder has not given the Minister another proposed later work program within the current work program period—

- (a) the Minister must give the holder a notice requiring the holder to give the Minister a proposed later work program for the GHG permit within 40 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.
- (6) In this section—

relevant fee, for the giving of the proposed program, means—

- (a) if the proposed program is given within the time required under subsection (3)—the fee prescribed under a regulation; or
- (b) if the proposed program is given after the time required under subsection (3)—
 - (i) if it is given under subsection (4)—nil; or
 - (ii) if it is not given under subsection (4)—an amount that is 10 times the prescribed fee.

92 Consequence of failure to comply with notice to give proposed later work program

- (1) If a GHG permit holder does not comply with a requirement under section 91(5)(a), the permit is cancelled.
- (2) However, the cancellation does not take effect until the Minister gives the holder a notice stating that the GHG permit has been cancelled because of the operation of subsection (1).

Part 6 Renewals

93 Conditions for renewal application

- (1) A GHG permit holder may apply to renew the permit only if none of the following is outstanding—
 - (a) annual rent for the GHG permit;
 - (b) a civil penalty under section 87 for nonpayment of annual rent;
 - (c) security required for the GHG permit, as required under section 271;
 - (d) interest payable under section 372 on annual rent or a civil penalty.
- (2) Also, the application can not be made—
 - (a) more than 60 business days before the end of the GHG permit's term; or
 - (b) after the GHG permit has ended.

94 Requirements for making application

- (1) The application must—
 - (a) be made to the Minister in the approved form; and
 - (b) include a statement about how and when the applicant proposes to consult with and keep informed each owner and occupier of private or public land on which authorised activities for the renewed GHG permit are or are likely to be carried out; and
 - (c) include a proposed later work program for the renewed GHG permit; and
 - (d) be accompanied by—
 - (i) the application fee prescribed under a regulation; and

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- (ii) if the application is made less than 20 business days before end of the GHG permit's term—an amount that is 10 times the application fee.
- (2) The proposed work program must comply with the later work program requirements.

95 Continuing effect of GHG permit for renewal application

- (1) This section applies if before the application is decided the GHG permit's term ends.
- (2) Despite the ending of the term, the GHG permit continues in force until the earlier of the following to happen—
 - (a) the start of any renewed term of the GHG permit;
 - (b) a refusal of the application takes effect;
 - (c) the application is withdrawn;
 - (d) the GHG permit is cancelled under this Act.
- (3) Also, if the applicant has applied for a declaration of a potential storage area for the GHG permit, it continues in force until the declaration application is decided but only for the area of the proposed GHG potential storage area applied for.
- (4) If the GHG permit is continued in force under subsection (3), the evaluation program included in the declaration application is taken to be the work program for the permit.
- (5) If the GHG permit is renewed, subsections (2) and (3) are taken never to have applied for the period from the end of the term of the GHG permit being renewed as stated in that permit.

96 Deciding application

- (1) The Minister may grant or refuse the renewal.
- (2) However—

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- (a) before deciding to grant the renewal, the Minister must decide whether to approve the applicant's proposed later work program for the renewed GHG permit; and
 - (b) the renewal can not be granted unless—
 - (i) the proposed program has been approved; and
 - (ii) the applicant satisfies the capability criteria; and
 - (iii) the Minister is satisfied the applicant—
 - (A) continues to satisfy any special criteria that applied for deciding the application for the GHG permit being renewed; and
 - (B) has substantially complied with the GHG permit being renewed; and
 - (iv) a relevant environmental authority has been issued.
 - (3) Also, if the applicant has been given a notice under section 107 to apply for a GHG lease, the application must not be decided until the issue of whether a GHG lease will be granted is decided.
 - (4) Subsection (3) does not limit the power under section 108 to take a proposed action as stated in the notice.
 - (5) The Minister may as a condition of deciding to grant the application require the applicant to do all or any of the following within a stated reasonable period—
 - (a) pay the annual rent for the first year of the renewed GHG permit;
 - (b) give under section 271, security for the renewed GHG permit.
 - (6) If the applicant does not comply with the requirement, the application may be refused.

97 Provisions and term of renewed GHG permit

- (1) Subject to this section, section 41 applies to the renewed GHG permit as if it were a GHG permit granted under part 2.

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- (2) To remove any doubt, it is declared that the conditions of the renewed GHG permit may be different from the conditions or other provisions of the GHG permit being renewed.
- (3) The area of the renewed GHG permit must not be more than the area of the GHG permit being renewed immediately before the renewed GHG permit is to take effect.
- (4) The first relinquishment day for the renewed GHG permit must not be later than 4 years after the day the renewed GHG permit is to take effect.
- (5) If the renewed GHG permit is decided before the end of the term of the GHG permit being renewed as stated in that GHG permit (the *previous term*), the term of the renewed GHG permit is taken to start from the end of the previous term.
- (6) If the renewed GHG permit is decided after the previous term, the term of the renewed GHG permit starts immediately after the end of the previous term, but—
 - (a) the conditions of the renewed GHG permit do not start until its holder is given notice of them; and
 - (b) until the notice is given, the conditions of the GHG permit being renewed apply to the renewed GHG permit as if they were its conditions.
- (7) The term of the renewed GHG permit must not end more than 12 years from when it originally took effect.
- (8) However, if any part of the renewed GHG permit's area is a potential storage area, the term of the renewed GHG permit for that part may be for a longer period that—
 - (a) ends no later than when the declaration ends; and
 - (b) is no more than the last term of the GHG permit being renewed.
- (9) To remove any doubt, it is declared that subsection (8)(b) does not prevent a renewal of the renewed GHG permit.

98 Criteria for decisions

In deciding whether to grant the renewal or deciding the provisions of the renewed GHG permit the Minister must consider—

- (a) the work program criteria; and
- (b) whether the applicant continues to satisfy the capability criteria and any special criteria.

99 Information notice about refusal

If the Minister decides to refuse the application, the Minister must give the applicant an information notice about the decision.

100 When refusal takes effect

A refusal of the application does not take effect until end of the appeal period for the decision to refuse.

Part 7 Potential storage areas

101 Applying for potential storage area

- (1) The holder of a GHG permit may apply for a declaration by the Minister that all or a stated part of its area is a potential storage area for the permit.
- (2) The application must be—
 - (a) made to the Minister in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.
- (3) The application may be made—
 - (a) for more than 1 part of the GHG permit's area; and

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- (b) even if another part of the GHG permit's area is already a potential storage area.
- (4) The application must include—
 - (a) a report for or that includes the proposed potential storage area that—
 - (i) meets the requirements under section 246 for a GHG viability report; and
 - (ii) is still relevant to the circumstances of the proposed potential storage area; and
 - (b) an evaluation program for—
 - (i) potential GHG stream storage in the proposed potential storage area; and
 - (ii) market opportunities for potential GHG stream storage.
- (5) However, subsection (4)(a) does not apply if—
 - (a) a GHG viability report or an independent viability assessment relates to or includes the proposed potential storage area; and
 - (b) the report or assessment is still relevant to the circumstances of the proposed potential storage area.

102 Deciding potential storage area application

- (1) The Minister may declare a part the subject of the application to be a potential storage area only if satisfied—
 - (a) the area is no more than is needed to cover the maximum extent of a GHG stream storage site identified in the report; and
 - (b) the applicant does not and will not soon have an available GHG stream for GHG stream storage in the area to be declared, but a GHG stream is likely to become available for GHG stream storage in the area.
- (2) The area declared must form a single parcel of land.

- (3) In deciding the application, regard must be had to whether the conditions of the relevant GHG permit have been substantially complied with.
- (4) To remove any doubt, it is declared that the declaration may be made even if the GHG permit has been continued in force under section 95 or 116.
- (5) If the Minister decides to refuse the application, the Minister must give the applicant an information notice about the decision.

103 Inclusion of evaluation program in work program

- (1) If the declaration is made, the evaluation program that accompanied the application is taken to be an additional part of the existing work program for the GHG permit.
- (2) If there is an inconsistency between the evaluation program and the rest of the work program, the evaluation program prevails to the extent of the inconsistency.

104 Term of declaration

- (1) A declaration of a potential storage area continues in force for the period stated in the declaration.
- (2) The period can not be more than 10 years.
- (3) In deciding a shorter period the Minister must consider—
 - (a) when any discovery of a GHG stream storage site was made; and
 - (b) any GHG viability report or independent viability assessment for or that includes the proposed potential storage area.
- (4) Despite subsection (1), the declaration ceases if the GHG permit holder gives the chief executive a notice stating that the holder no longer wishes the area to be a potential storage area.

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105 Potential storage area still part of GHG permit

A declaration of a potential storage area does not change the land the subject of the declaration from being—

- (a) part of the area of the GHG permit the subject of the application for the declaration; and
- (b) subject to the GHG permit.

Part 8 Provisions to facilitate transition to GHG lease

106 Application of pt 8

This part applies if the Minister reasonably considers the holder of a GHG permit should apply for a GHG lease for all or part of the permit's area because a GHG stream is or soon will be available for GHG stream storage in the area.

107 Ministerial direction to apply for GHG lease

- (1) The Minister may give the GHG permit holder a notice stating each of the following—
 - (a) that the Minister proposes to do either of the following, (the *proposed action*) unless the holder has made an appropriate lease application—
 - (i) excise a stated area from the area of the GHG permit;
 - (ii) cancel the GHG permit;
 - (b) the grounds for the proposed action;
 - (c) the facts and circumstances forming the basis for the grounds;

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- (d) that the holder may within a stated period, make submissions to the Minister about why the holder should not make a GHG lease application for the stated area.
 - (2) The stated period must be reasonable but must not be more than 6 months.
 - (3) In this section—
 - appropriate lease application* means a GHG lease application for—
 - (a) the stated area or an area that is substantially the same as the stated area; or
 - (b) another area the Minister reasonably considers will effectively allow the holder to carry out authorised activities for a GHG lease in relation to the stated area.

108 Taking proposed action

- (1) Proposed action under section 107 may be taken only if—
 - (a) the stated period under that section has ended; and
 - (b) either—
 - (i) the holder has not made an appropriate GHG lease application under that section; or
 - (ii) any appropriate lease application under that section made by the holder has been refused; and
 - (c) the Minister has considered any submissions made by the holder within the period.
- (2) The decision does not take effect until the holder is given an information notice about the decision.
- (3) A refusal of the application takes effect at end of the appeal period for the decision to refuse.

Chapter 3 GHG injection and storage leases

Notes—

- 1 For the requirement to have a GHG tenure, see section 386.
- 2 Chapter 4 imposes requirements for and restrictions on the granting of, and restrictions on authorised activities that may be carried out under, particular GHG tenures. See section 182.

Part 1 Key authorised activities

109 Operation of pt 1

This part provides for the key authorised activities for a GHG lease.

Notes—

- 1 For other authorised activities, see chapter 5, part 7, division 4 (Access to private land outside area of GHG authority) and part 12 (General provisions for conditions and authorised activities).
- 2 For general restrictions on authorised activities, their relationship with owner's and occupiers' rights and who may carry out authorised activities for a GHG authority holder, see chapter 5, part 12, division 3.

110 Principal authorised activities

The GHG lease holder may carry out the following activities in the lease's area—

- (a) GHG storage exploration;
- (b) evaluating the feasibility of GHG stream storage, including for example, by GHG storage injection testing;
- (c) compressing or otherwise processing a GHG stream for GHG stream storage;
- (d) GHG stream storage

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- (e) monitoring and verifying the behaviour of the GHG streams.

111 GHG stream pipeline and water pipeline construction and operation

- (1) The GHG lease holder may construct and operate GHG stream pipelines and water pipelines in the lease's area.

Note—

The P&G Act provides for the granting of licences that will allow the investigation and surveying for, and the construction and operation of, GHG stream pipelines outside the area of a GHG lease. See sections 16, 394 and 402 of that Act.

- (2) However, if a GHG stream pipeline or water pipeline extends beyond the area of the GHG lease, subsection (1) applies only if the pipeline is completely within—
- (a) the GHG lease's area; and
 - (b) the area of 1 or more other GHG leases that are—
 - (i) contiguous to the GHG lease; and—
 - (ii) also held by the holder or are subject to a GHG coordination arrangement to which the holder is a party.
- (3) Also, if the pipeline is a water pipeline, the pipeline may only be operated to transport water for the carrying out of an authorised activity for the GHG lease or another GHG lease mentioned in subsection (2)(b) on an area mentioned in subsection (2).
- (4) Subsection (3) does not prevent the GHG lease holder from constructing or operating a water pipeline if the holder can otherwise lawfully do so.
- (5) In this section—
- operate**, a GHG stream pipeline, includes use, inspect, test, maintain, repair, alter, add to and replace the pipeline.

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water pipeline means—

- (a) a pipe or system of pipes for transporting water; and
- (b) a thing connected to or associated with the pipeline that is necessary for its operation, including for example, a thing mentioned in the examples to section 17(2)(b).

112 Incidental activities

- (1) The GHG lease holder may carry out an activity (an *incidental activity*) in the lease's area if carrying out the activity is reasonably necessary for or is incidental to another authorised activity for the lease.

Examples of incidental activities—

- 1 constructing or operating facilities, plant or works, including for example, communication systems, compressors, powerlines, pumping stations, reservoirs, roads, evaporation or storage ponds and tanks
 - 2 constructing or using temporary structures or structures of an industrial or technical nature, including for example, mobile and temporary camps
- (2) However, constructing or using a structure other than a temporary structure, for office or residential accommodation is not an incidental activity.

Editor's note—

For development generally, see the *Integrated Planning Act 1997*, chapter 3 (Integrated development assessment system (IDAS)) and schedule 9 (Development that is exempt from assessment against a planning scheme).

Part 2 **Transition from GHG permit to GHG lease**

Division 1 **Applying for GHG lease**

113 **Who may apply**

- (1) A GHG permit holder may apply for a GHG lease over all or part of the permit's area.
- (2) Also, a person other than the holder may apply for the GHG lease—
 - (a) jointly with the holder; or
 - (b) with the holder's consent.
- (3) An application under this section is a *permit-related application*.

114 **Requirements for making permit-related application**

A permit-related application must—

- (a) be made to the Minister in the approved form; and
- (b) address the capability criteria; and
- (c) include—
 - (i) a statement about how and when the applicant proposes to consult with and keep informed each owner and occupier of private or public land on which authorised activities for the proposed GHG lease are or are likely to be carried out;
 - (ii) a proposed development plan that complies with the initial development plan requirements; and
 - (iii) a verification statement that complies with section 115.

[s 115]

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

115 Requirements for verification statement

For section 114(c)(iii), a verification statement must—

- (a) be made by an appropriately qualified independent person; and
- (b) verify that, in the person's opinion, the applicant has—
 - (i) the financial and technical resources to carry out authorised activities for the proposed GHG lease; and
 - (ii) the ability to carry out GHG stream storage.

116 Continuing effect of GHG permit for permit-related application

- (1) This section applies if other than for subsection (2), the relevant GHG permit would other than by cancellation under this Act, end before the permit-related application is decided.
- (2) The GHG permit continues in force for the area the subject of the application until the earlier of the following to happen—
 - (a) the start of the term of the GHG lease;
 - (b) a refusal of the application takes effect;
 - (c) the application is withdrawn.
- (3) Despite any ending of the program period for the current work program for the GHG permit—
 - (a) the GHG permit is taken to have a work program; and
 - (b) the holder may carry out any authorised activity for the GHG permit.

Division 2 Deciding permit-related applications

117 Deciding whether to grant GHG lease

- (1) Subject to sections 119 and 121, the Minister may grant a GHG lease applied for under a permit-related application only if the Minister is satisfied the requirements mentioned in section 118 (the *requirements for grant*) have been complied with.
- (2) The application must be refused if the Minister is not satisfied any requirement for grant other than the requirement mentioned section 118(1)(c) has been complied with.
- (3) If the Minister is satisfied the requirements for grant other than the requirement mentioned section 118(1)(c) have been complied with, the Minister may grant the GHG lease.

118 Requirements for grant

- (1) The requirements for grant are each of the following—
 - (a) the applicant is an eligible person;
 - (b) the proposed area of the proposed GHG lease—
 - (i) is appropriate for the authorised activities proposed to be carried out; and
 - (ii) contains an adequately identified GHG stream storage site that is adequate for the proposed purpose of the GHG lease;
 - (c) the conditions of the relevant GHG permit have been substantially complied with;
 - (d) the Minister has approved the applicant's proposed initial development plan for the GHG lease;
 - (e) a relevant environmental authority has been issued;
 - (f) the applicant has established that—

[s 119]

- (i) GHG stream storage in the GHG lease's area is or is likely to happen within 5 years after the lease is to take effect; or
 - (ii) the applicant has entered into a contract, GHG coordination arrangement or other arrangement for GHG stream storage in the GHG lease's area (a *relevant arrangement*);
- (g) the applicant has paid the annual rent for the first year of the proposed GHG lease;
- (h) the applicant has given under section 271, security for the GHG lease;
- (i) the Minister is of the opinion that the applicant is capable of carrying out authorised activities for the GHG lease having regard to the applicant's—
 - (i) financial and technical resources; and
 - (ii) ability to carry out GHG stream storage.
- (2) The matters mentioned in subsection (1)(i) are the *capability criteria*.
- (3) A person *satisfies* the capability criteria if the Minister forms the opinion about the person mentioned in subsection (1)(i).

119 Exception for particular relevant arrangements

The application may be refused if the Minister—

- (a) is not satisfied of the matter under section 118(1)(f)(i); and
- (b) is satisfied the applicant has entered into a relevant arrangement, but the Minister reasonably believes—
 - (i) the arrangement is not an arms-length commercial transaction; or
 - (ii) supply under the arrangement is unlikely to be carried out.

120 Provisions of GHG lease

- (1) A GHG lease must state its area.
- (2) A GHG lease may also state—
 - (a) conditions or other provisions of the GHG lease other than conditions or provisions that are—
 - (i) inconsistent with the mandatory conditions for GHG leases; or
 - (ii) the same as or substantially the same as or inconsistent with any relevant environmental condition; and
 - (b) a day for the GHG lease to take effect; and
 - (c) a day by which GHG stream storage under the GHG lease is to start (the *storage commencement day*).
- (3) However, the provisions of the GHG lease may exclude or restrict the carrying out of an authorised activity for the lease.
- (4) The day of effect must not be before the day the GHG lease is granted.
- (5) If no day of effect is decided, the GHG lease takes effect on the day it is granted.
- (6) The storage commencement day may be more than 5 years after the day of effect only if the Minister is satisfied the holder has entered into a relevant arrangement.
- (7) In deciding the provisions of the GHG lease the Minister must consider the development plan criteria and capability criteria.
- (8) This section applies subject to section 121.

121 Provisions about grant and conditions of GHG lease for significant project

- (1) This section applies if a proposed GHG lease is for a significant project.

[s 122]

- (2) The Minister must not grant the GHG lease until the Minister has been given the Coordinator-General's report for the project.
- (3) Any Coordinator-General's conditions for the GHG lease must be stated in the lease.
- (4) Any other condition of the GHG lease stated under section 120 must not be inconsistent with the Coordinator-General's conditions.
- (5) If a mandatory condition for GHG leases conflicts with any of the Coordinator-General's conditions, the mandatory condition prevails to the extent of the inconsistency.
- (6) In this section—

Coordinator-General's conditions, for the proposed GHG lease, means the conditions for the lease stated in the Coordinator-General's report for the significant project.

Coordinator-General's report means the Coordinator-General's report under the *State Development and Public Works Organisation Act 1971* for the EIS for the significant project.

122 Information notice about refusal

If the Minister decides to refuse the application, the Minister must give the applicant an information notice about the decision.

123 When refusal takes effect

A refusal of the application does not take effect until the end of the appeal period for the decision to refuse.

Part 3 Obtaining GHG lease by competitive tender

Division 1 Preliminary

124 Operation of pt 3

- (1) This part provides for a process for the granting of GHG leases by competitive tender.
- (2) To remove any doubt, it is declared that a GHG lease can only be granted under this part or part 2.

Division 2 Calls for tenders

125 Call for tenders

- (1) The Minister may by gazette notice invite tenders for a GHG lease (a *call for tenders*).
- (2) The call must state—
 - (a) the day and time by which tenders in response to it must be made (the *closing time* for the call); and
 - (b) any criteria (*special criteria*) other than the development plan criteria and capability criteria proposed to be used to decide whether to grant the GHG lease or to decide its provisions.
- (3) The call may state other relevant matters, including for example, matters relevant to the development plan, capability or special criteria.

126 Right to tender

- (1) Any person may tender for a proposed GHG lease the subject of a call for tenders.

[s 127]

Note—

See however, section 130(2) (Deciding whether to grant GHG lease).

- (2) However, a tender—
- (a) must comply with the requirements under section 114 for making an permit-related application; and
 - (b) must be made to the Minister in the approved form; and
 - (c) can not be made—
 - (i) after the closing time for the call; or
 - (ii) for only part of the area of the proposed GHG lease.

127 Right to terminate call for tenders

- (1) The Minister may by gazette notice terminate a call for tenders at any time before deciding whether to grant a GHG lease to a person who has made a tender in response to the call.
- (2) All tenders in response to the call lapse when the call is terminated.
- (3) No amount, whether by way of compensation, reimbursement or otherwise, is payable by the State to any person for or in connection with the termination.

Division 3 Deciding tenders

128 Process for deciding tenders

Subject to section 132, any process the Minister considers appropriate may be used to decide a call for tenders, including for example, by a process appointing a preferred tenderer on the tenders made in response to the call.

129 Provisions for preferred tenderers

- (1) The Minister may require a preferred tenderer for the call for tenders to—
 - (a) pay any amounts necessarily incurred or to be incurred to enable the GHG lease to be granted; and
 - (b) to do all or any of the following within a stated reasonable period—
 - (i) pay the annual rent for the first year of the GHG lease;
 - (ii) give security for the GHG lease as required under section 271.
- (2) If a preferred tenderer does not—
 - (a) comply with a requirement under subsection (1); or
 - (b) do all things reasonably necessary to allow a GHG lease to be granted to the tenderer;

the Minister may appoint another tenderer to be the preferred tenderer.

130 Deciding whether to grant GHG lease

- (1) The Minister may, after the closing time for the call for tenders—
 - (a) grant a GHG lease to 1 tenderer; or
 - (b) refuse to grant any GHG lease.
- (2) However—
 - (a) before deciding to grant the GHG lease, the Minister must decide whether to approve the applicant's proposed initial development plan for the GHG lease; and
 - (b) the Minister can not grant the GHG lease unless—
 - (i) the tenderer is an eligible person; and

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- (ii) the proposed plan has been approved; and
 - (iii) the Minister is satisfied the requirements for grant other than the requirement mentioned in section 118(1)(c) have been complied with; and
 - (iv) a relevant environmental authority has been issued.
- (3) This section applies subject to section 121.

131 Provisions of GHG lease

Sections 120 and 121 apply to a GHG lease granted under this part as if the tender for the lease was a permit-related application.

132 Criteria for decisions

- (1) In considering whether to grant a GHG lease or its provisions the Minister must consider the development plan criteria, capability criteria and any special criteria.
- (2) The Minister may give the weight to each of the development plan, capability and special criteria that the Minister considers appropriate in the circumstances.

133 Notice to unsuccessful tenderers

After a call for tenders has been decided, the Minister must give each tenderer not granted the GHG lease notice of the decision.

Part 4 Term and area provisions

134 Term of GHG lease

A GHG lease—

- (a) does not have a fixed term; and
- (b) continues in force until it is surrendered or otherwise ends under this Act.

135 Area of GHG lease

- (1) This section provides for the area of a GHG lease.
- (2) The area does not include excluded land for the GHG lease.
- (3) Unless the Minister otherwise decides, the area must form a single parcel of land.
- (4) The area must not include any of the following (*unavailable land*)—
 - (a) land in the area of another GHG tenure other than land that will under section 48, cease to be included in the area of a GHG permit on the grant of the GHG lease;
 - (b) excluded land for another GHG tenure;
 - (c) land that a regulation prescribes as land over which a GHG lease can not be granted.
- (5) The area may include a part of a sub-block only if the part is all areas within the sub-block that are left after taking away all unavailable land within the sub-block.

136 References to sub-blocks of GHG lease

- (1) This section applies if a GHG lease states that its area includes land within a block without including or excluding any particular sub-block.
- (2) The reference to the block is a reference to all sub-blocks within the block to the extent they do not consist of unavailable land.
- (3) To remove any doubt, it is declared that if land within any of the sub-blocks ceases to be unavailable land, the cessation itself does not cause the land to be within the GHG lease's area.

[s 137]

137 Minister's power to decide excluded land

- (1) The Minister may decide excluded land for a GHG lease or proposed GHG lease.
- (2) However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—
 - (a) grant the GHG lease; or
 - (b) approve any later development plan for the GHG lease.
- (3) However, excluded land—
 - (a) must be within any sub-block that the GHG lease states is included in its area; and
 - (b) can not be a whole sub-block.
- (4) For subsection (3)(a), if the instrument—
 - (a) states that the GHG lease's area includes land within a block; but
 - (b) does not include or exclude any particular sub-block within that block;

the reference to the block is a reference to all sub-blocks within the block other than any sub-block that is completely within the area of another GHG tenure.
- (5) Excluded land may be described in a way the Minister considers appropriate, including for example, by area or by reference to a stated type of land.
- (6) Land ceases to be excluded land for a GHG lease if for any reason, the sub-block in which the land is located ceases to be in the lease's area.

138 Minister may add excluded land

- (1) The Minister may amend a GHG lease by adding excluded land for the GHG lease to its area only if—
 - (a) the GHG lease as amended complies with section 135 and

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- (b) the GHG lease holder consents.
 - (2) If land mentioned in subsection (1) is added to the area of the GHG lease, the land ceases to be excluded land for the lease.
 - (3) The Minister may amend the provisions of the GHG lease in a way that reflects the inclusion of the excluded land.
 - (4) Also, the Minister may give the GHG lease holder a notice—
 - (a) withdrawing from a stated day, the approval of the development plan for the GHG lease; and
 - (b) directing the holder to give the Minister a proposed later development plan for the GHG lease that—
 - (i) complies with the later development plan requirements; and
 - (ii) changes the development plan for the GHG lease to reflect the inclusion of the excluded land.
 - (5) The amended provisions of the GHG lease or the proposed later development plan must not be—
 - (a) inconsistent with the mandatory conditions for GHG leases; or
 - (b) the same as or substantially the same as or inconsistent with any relevant environmental condition.

Part 5 Development plans

Division 1 Function and purpose

139 Function and purpose

- (1) The development plan for a GHG lease (the *relevant lease*) gives detailed information about the nature and extent of activities to be carried out under the relevant lease.

[s 140]

- (2) The development plan may—
 - (a) also relate to another GHG lease or proposed GHG lease if the other GHG lease or proposed GHG lease relates to the relevant lease; and
 - (b) provide that when the plan is approved it will replace any development plan for the other lease.
- (3) The purposes of giving the information are to—
 - (a) allow resource management decisions to be made; and
 - (b) ensure appropriate development of the GHG lease.

Division 2 Requirements for proposed initial development plans

140 Operation of div 2

This division provides for requirements (the *initial development plan requirements*) for a proposed initial development plan for a proposed GHG lease.

141 General requirements

- (1) The proposed plan must provide for all of the following—
 - (a) an overview of the activities proposed to be carried out under the proposed GHG lease during all of its term;
 - (b) a description of the activities proposed to be carried out under the GHG lease during each year of the plan period;
 - (c) each of the following for each GHG stream storage site in the GHG lease's area—
 - (i) a site plan that complies with section 142;
 - (ii) a verifiable estimate of the GHG stream storage site's capacity;

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- (iii) a monitoring and verification plan that complies with section 145;
 - (d) the composition of GHG streams proposed to be injected or used for GHG stream storage under the GHG lease;
 - (e) a description of any pipeline land for the GHG lease;
 - (f) reasons why the plan is considered appropriate;
 - (g) another matter prescribed under a regulation.
- (2) The proposed plan may include any other information relevant to the development plan criteria
 - (3) The composition of GHG streams to be injected under proposed GHG lease must comply with section 164.
 - (4) A regulation may impose requirements about the form of the development plan.
 - (5) In this section—
year, of the plan period, means—
 - (a) the period starting on the day the plan period starts and ending on the first anniversary of that day; and
 - (b) each subsequent period of 12 months or less during the plan period starting on each anniversary of that day and ending on—
 - (i) the next anniversary of that day; or
 - (ii) if the plan period ends before the next anniversary—the day the plan period ends.

142 Site plan

- (1) A site plan for a GHG stream storage site must consist of maps, geological cross-sections, three dimensional models and other appropriate information about the site.
- (2) Without limiting subsection (1), the site plan must show each of the following—

[s 143]

- (a) the geological structure and geochemical composition of the relevant GHG storage reservoir;
 - (b) the GHG storage reservoir's properties, including the potential interaction of carbon dioxide with its rock matrix and fluids;
 - (c) the proposed rate of GHG stream injection;
 - (d) the proposed composition of the GHG streams to be injected;
 - (e) the expected migration pathway of the GHG streams;
 - (f) the operations and techniques to be used to monitor and verify the behaviour of GHG streams during the term of the GHG lease.
- (3) The site plan must include any other information prescribed under a regulation.

143 Petroleum wells to be assumed

If under the 1923 Act, section 75U or the P&G Act section 292, the proposed GHG lease holder proposes to assume responsibility for a petroleum well, the proposed plan must—

- (a) identify the wells; and
- (b) describe the GHG storage activities proposed to be carried out relating to the wells.

Note—

See also sections 263 (Former petroleum wells assumed by GHG tenure holder) and 267 (Obligation to decommission).

144 Water issues

- (1) In preparing the proposed plan, the proposed GHG lease holder must have regard to potential groundwater issues.
- (2) The proposed plan must include a plan for the treatment and disposal of any water taken or that may be taken because of

the carrying out of authorised activities for the proposed GHG lease.

145 Monitoring and verification plan

The proposed development plan must include a plan for the observation and monitoring of the migration pathway or pathways of GHG streams before, during and after injection into the relevant GHG storage reservoir.

146 Plan period

- (1) The proposed plan must state its period.
- (2) If the proposed plan relates to a tender, the period must be the same as the required period under the relevant call for tenders.
- (3) If the proposed plan relates to a permit-related application, the period must not be longer than 5 years from when the proposed GHG lease is to take effect.

Division 3 Approval of proposed initial development plans

Note—

For the requirement for approval of an initial development plan, see sections 117 and 130.

147 Criteria for decision

- (1) In deciding whether to approve a proposed development plan the Minister must consider—
 - (a) the potential of the area of the proposed GHG lease for GHG stream storage and related activities; and
 - (b) the nature and extent of the activities and when and where they are proposed to be carried out; and

[s 148]

- (c) whether GHG stream storage under the GHG lease will be optimised in the best interests of the State; and
 - (d) the nature and extent of water disposal and treatment activities; and
 - (e) any relevant authorisation required under the Water Act.
- (2) The matters mentioned in subsection (1) are the *development plan criteria*.

148 Verification may be required

- (1) The Minister may by notice require the applicant to give the Minister within a stated reasonable period a document made by an appropriately qualified independent person that verifies—
- (a) an assessment of data supplied in the proposed initial development plan; or
 - (b) the source of the data; or
 - (c) the work done for the development plan.
- (2) If the applicant does not comply with the requirement, the Minister may refuse to approve the development plan.
- (3) The applicant must pay any costs incurred in complying with the requirement.

149 Referral to Water Act Minister

The Minister can not approve the proposed plan unless—

- (a) the Minister has given the Water Act Minister a copy of the proposed plan; and
- (b) the Water Act Minister has approved the proposed development plan to the extent it relates to potential groundwater issues.

Division 4 Requirements for proposed later development plans

150 Operation of div 4

This division provides for requirements (the *later development plan requirements*) for a proposed later development plan for a GHG lease.

Note—

For the requirements to give a proposed later development plan, see sections 47 (Minister may add excluded land), 172 (Obligation to give proposed later development program) and 379 (Types of noncompliance action that may be taken).

151 General requirements

- (1) The proposed plan must—
 - (a) comply with the initial development plan requirements; and
 - (b) highlight any significant changes from the current development plan for the GHG lease; and
 - (c) if the current development plan has not been complied with—state the details of and the reasons for each noncompliance.
- (2) If the effect of the proposed plan is to significantly change an activity provided for under the current development plan for the GHG lease, the proposed plan must also state reasons for the change.
- (3) Also, for a significant change that is a reduction of GHG stream injection, the proposed plan must include an evaluation of the following in the GHG lease's area—
 - (a) the potential for GHG stream storage;
 - (b) market opportunities for GHG stream storage.

[s 152]

Division 5 Approval of proposed later development plans

152 Application of div 5

This division applies if—

- (a) under this Act, a proposed later development plan is given to the Minister for approval; or
- (b) the Minister is considering an application under section 188 for approval of a proposed GHG coordination arrangement.

153 GHG lease taken to have development plan until decision on whether to approve proposed development plan

- (1) This section applies until—
 - (a) if the approval is given—the holder is given notice of the approval; or
 - (b) if the approval is refused—when the refusal takes effect.
- (2) Despite the ending of the plan period for the current development plan for the GHG lease—
 - (a) the GHG lease is taken to have a development plan; and
 - (b) the holder may carry out any authorised activity for the GHG lease.

154 Deciding whether to approve proposed plan

- (1) The Minister may approve or refuse to approve the proposed plan.
- (2) In deciding whether to approve the proposed plan the Minister must consider each of the following—

- (a) the development plan criteria;
- (b) the extent to which the current development plan for the GHG lease has been complied with;
- (c) if the proposed plan provides for a significant change that is a reduction of GHG stream injection—
 - (i) whether the reduction is reasonable; and
 - (ii) whether the GHG lease holder has taken all reasonable steps to prevent the reduction.
- (3) Also, if the GHG lease was granted in response to a tender, any other development plan proposed by other tenderers for the lease must be considered.
- (4) However, subsection (3) applies only to the extent the other plan includes the period of the proposed plan.

155 Steps after, and taking effect of, decision

- (1) If the Minister decides to approve the proposed later development plan, the Minister must give the holder notice of the decision.
- (2) The approval takes effect when the holder is given the notice or if the notice states a later day of effect, on that later day.
- (3) If the Minister decides to refuse to approve the proposed plan, the Minister must give the holder an information notice about the decision.
- (4) The refusal does not takes effect until the end the appeal period for the decision to refuse.

Division 6 Amending development plans

156 Restrictions on amendment

- (1) A GHG lease holder may amend the development plan for the GHG lease.

[s 157]

- (2) However, the amendment is subject to approval under this division.
- (3) Also, a development plan can not be amended—
 - (a) in a way that provides for a cessation of GHG stream injection under a GHG lease; or

Note—
See section 176 (Timing of surrender application).

 - (b) if the plan as amended would not comply with the later development plan requirements.

157 Applying for approval to amend

- (1) A GHG lease holder may apply to for approval to amend the development plan for the lease.
- (2) The application must be—
 - (a) made to the Minister in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.

158 Deciding application

In deciding whether to approve the proposed amendment the Minister must consider—

- (a) the development plan criteria; and
- (b) the extent to which the current development plan for the GHG lease has been complied with; and
- (c) if the proposed plan provides for a significant change that is a reduction of GHG stream injection—
 - (i) whether the reduction is reasonable; and
 - (ii) whether the GHG lease holder has taken all reasonable steps to prevent the reduction.

159 Steps after, and taking effect of, decision

- (1) If the Minister decides to approve the proposed amendment, the Minister must give the holder notice of the decision.
- (2) If the Minister decides to refuse to approve the proposed amendment, the Minister must give the applicant an information notice about the decision.
- (3) The refusal takes effect when the holder is given the notice or if the notice states a later day of effect, on that later day.

Part 6 Key mandatory conditions for GHG leases

160 Operation of pt 6

This part provides for particular mandatory conditions for GHG leases.

161 Compliance with test plan for GHG storage injection testing

- (1) A GHG lease holder may carry out GHG storage injection testing only in accordance with the following—
 - (a) a test plan for that purpose approved by the Minister;
 - (b) all conditions of the approval.
- (2) The holder may ask the Minister to approve a test plan proposed by the holder.
- (3) The proposed test plan must comply with any requirements prescribed under a regulation.
- (4) The Minister may impose conditions on the granting of the approval.

[s 162]

- (5) If the Minister decides to refuse to approve the proposed test plan or to impose conditions on the granting of the approval, the Minister must give the holder an information notice about the decision.

162 Restriction on substances that may be used for GHG storage injection testing

A GHG lease holder can not use a substance other than a GHG stream or water for injection for GHG storage.

163 Restriction on substances that may be used for GHG stream storage

A GHG lease holder can not use a substance other than a GHG stream for GHG stream storage.

164 Restriction on GHG streams that may be used

A GHG lease holder may use a GHG stream for GHG storage injection testing or GHG stream storage only if it consists only of carbon dioxide and—

- (a) a substance incidentally derived from—
- (i) the process called carbon dioxide capture, transport and geological storage, also called carbon capture and storage; or
 - (ii) GHG storage; or
- (b) a detection agent prescribed under a regulation at the rate or concentration prescribed under a regulation.

Note—

A stream is a GHG stream only if it is a stream of carbon dioxide or a substance that overwhelmingly consists of carbon dioxide. See section 12 (What is a *GHG stream*).

165 Water Act authorisation required for taking or interference with water

A GHG lease holder can not take or interfere with water as defined under the Water Act unless the taking or interference is authorised under that Act.

Note—

For relevant Water Act provisions, see sections 19 and 808 of that Act.

166 Obligation to consult with particular owners and occupiers

- (1) A GHG lease holder must consult or use reasonable endeavours to consult with each owner and occupier of private or public land on which authorised activities for the GHG lease are or are likely to be carried out.
- (2) The consultation must be about the carrying out of authorised activities for the GHG lease (including for example, crossing access land for the lease) to the extent they relate to the owners and occupiers.
- (3) The consultation must be carried out in the way and at the times—
 - (a) provided for in the GHG lease; or
 - (b) if the GHG lease does not provide for how the consultation must be carried out—approved by the Minister.
- (4) This section does not limit chapter 5, parts 7 and 8.
- (5) A failure to comply with this section does not prevent authorised activities for the GHG lease from being carried out.

167 Obligation to commence GHG stream storage

A GHG lease holder must start GHG stream storage under the GHG lease on or before the later of the following—

[s 168]

- (a) the end of 5 years after the GHG lease takes effect;
- (b) any storage commencement day for the GHG lease.

168 Annual rent

- (1) A GHG lease holder must pay the State the annual rent as prescribed under a regulation.
- (2) The annual rent must be paid in the way, and on or before the day, prescribed under a regulation.

169 Civil penalty for nonpayment of annual rent

- (1) If a GHG lease holder does not pay the annual rent as required under section 168, the holder must also pay the State a civil penalty.
- (2) The amount of the penalty is 15% of the rent.
- (3) The penalty—
 - (a) must be paid on the day after the last day for payment of the rent; and
 - (b) is still payable even if the holder later pays the rent.

Note—

See also section 372 (Interest on amounts owing to the State).

170 Requirement to have development plan

The holder of a GHG lease must have a development plan for the lease.

171 Compliance with development plan

A GHG lease holder must comply with the development plan for the lease.

172 Obligation to give proposed later development plan

- (1) This section imposes an obligation on a GHG lease holder to give the Minister a proposed later development plan for the lease.
- (2) The obligation is complied with only if the proposed later development plan—
 - (a) complies with the later development plan requirements; and
 - (b) is accompanied by the relevant fee.
- (3) A proposed later development plan must be given to the Minister—
 - (a) at least 40 but no more than 100 business days before the end of the plan period for its current development plan (the *current plan period*); or
 - (b) as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the current development plan for the GHG lease.
- (4) However, if before the end of the current plan period a decision is made to refuse to approve a proposed later development plan given under subsection (3), the holder may within the period give the Minister another proposed later development plan.
- (5) If the holder does not give the Minister any proposed later development plan before the end of the current plan period or if subsection (4) applies and the holder does not give the Minister another proposed later development plan within the current plan period—
 - (a) the Minister must give the holder a notice requiring the holder to give the Minister a proposed later development plan for the GHG lease within 40 business days after the giving of the notice; and
 - (b) the holder must comply with the requirement.

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- (6) In this section—
- relevant fee*, for the lodgment of the proposed plan, means—
- (a) if the proposed plan is given within the time required under subsection (3)—the fee prescribed under a regulation; or
 - (b) if the proposed plan is given after the time required under subsection (3) and—
 - (i) if it is given under subsection (4)—nil; or
 - (ii) if it is not given under subsection (4)—an amount that is 10 times the prescribed fee.

173 Consequence of failure to comply with notice to give proposed later development plan

- (1) If a GHG lease holder does not comply with a requirement under section 172(5)(a), the lease is cancelled.
- (2) However, the cancellation does not take effect until the Minister gives the holder a notice stating that the GHG lease has been cancelled because of the operation of subsection (1).

Part 7 Surrenders

174 When surrender is permitted

A GHG lease holder may surrender the lease only if, under this part—

- (a) an application (a *surrender application*) has been made for approval of the surrender; and
- (b) the surrender has been approved.

175 Part of GHG lease area can not be surrendered

A GHG lease holder can not surrender part of the lease's area.

176 Timing of surrender application

- (1) If—
- (a) GHG stream injection under a GHG lease ceases; and
 - (b) all GHG wells in the GHG lease's area have been decommissioned in the way required under section 267;
- the GHG lease holder must make a surrender application for the lease within 60 business days.
- Maximum penalty—500 penalty units
- (2) The GHG lease holder can not make a surrender application for the lease before all of the events mentioned in subsection (1) have happened.

177 Requirements for making surrender application

- (1) A surrender application must be—
- (a) made to the Minister in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.
- (2) A surrender application must also be accompanied by a report by the applicant stating each of the following—
- (a) the authorised activities for the GHG lease carried out on the area the subject of the application;
 - (b) the results of the activities;
 - (c) the applicant's modelling of the behaviour of GHG streams injected under the GHG lease;
 - (d) information relevant to the modelling and the applicant's analysis of the information;
 - (e) the applicant's assessment of—

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- (i) the behaviour of GHG streams injected under the GHG lease; and
 - (ii) the expected migration pathway or pathways of the GHG streams; and
 - (iii) the short-term and long-term consequences of the migration;
- (f) the applicant's suggestions for the approach to be taken by the State if the surrender is approved, to monitor and verify the behaviour of the GHG streams;
- (g) any other information prescribed under a regulation.

Maximum penalty for subsection (2)—500 penalty units.

178 Minister may require further report or work for surrender of GHG lease

- (1) Before deciding whether to approve the surrender of a GHG lease the Minister may by notice require the applicant to do either or both of the following—
- (a) give the Minister a report about whether the risks associated with GHG stream storage under the GHG lease have been reduced as much as is reasonably practicable;
 - (b) carry out stated work to reduce the risks.
- (2) The applicant must comply with the requirement.
- Maximum penalty—500 penalty units.
- (3) Until the applicant complies with the requirement, the Minister need not decide the application.

179 Deciding application

- (1) The Minister may approve a surrender only if—
- (a) up to the day the application was made, the holder had submitted all reports required to be submitted under this Act; and

- (b) the Minister considers the risks associated with GHG stream storage under the GHG lease have been reduced as much as is reasonably practicable; and
 - (c) all of the relevant environmental authority has been cancelled or surrendered.
- (2) In deciding whether to approve a surrender the Minister must consider the extent to which the applicant has complied with the conditions of the GHG lease.

180 Notice and taking effect of decision

- (1) If the Minister decides to approve a surrender, the Minister must give the applicant notice of the decision.
- (2) The surrender takes effect on the day after the decision is made.
- (3) If the Minister decides to refuse a surrender, the Minister must give the applicant an information notice about the decision.

181 Responsibility for injected GHG streams after decommissioning

- (1) This section applies on the surrender of a GHG lease.
- (2) Any GHG stream injected into a GHG storage reservoir in the former GHG lease's area in compliance with section 164 becomes the property of the State.
- (3) Subsection (2) applies despite—
 - (a) the GHG stream being on or part of land owned by someone else; or
 - (b) the sale or other disposal of the land

Chapter 4 Coordination with other authorities

Part 1 Preliminary

182 Relationship with chs 2, 3 and 5

- (1) Requirements and restrictions under this chapter relating to the granting of a GHG tenure apply as well as any relevant requirements under chapter 2, 3 or 5.
- (2) If this chapter imposes a requirement for or a restriction on the granting of a GHG tenure, it can not be granted if the restriction applies or if the requirement has not been complied with.
- (3) If a provision of this chapter conflicts with a provision of chapter 2, 3 or 5, the provision of this chapter prevails to the extent of the inconsistency.
- (4) This chapter does not otherwise limit or affect the requirements of chapter 2, 3 or 5.
- (5) Subsection (6) applies if this chapter imposes a requirement for or a restriction on the carrying out of an authorised activity for a GHG authority.
- (6) Despite chapters 2, 3 and 5, the activity is not an authorised activity for the GHG authority while the restriction applies or if the requirement has not been complied with.

183 What is an *overlapping authority*

- (1) An *overlapping authority*, for a GHG authority, is any authority of the following types all or part of the area of which is in the GHG authority's area—
 - (a) an exploration authority (non-GHG);
 - (b) a petroleum lease;

- (c) a mining lease.
- (2) An ***overlapping authority***, for a proposed GHG authority, is another authority of a type mentioned in subsection (1) (the ***other authority***) all or part of the area of which will if the proposed GHG authority is granted be in the other authority's area.

184 What is an *exploration authority (non-GHG)*

An ***exploration authority (non-GHG)*** is—

- (a) an ATP; or
- (b) any of the following under the Mineral Resources Act—
 - (i) a mining claim;
 - (ii) an exploration permit;
 - (iii) a mineral development licence or
- (c) a geothermal exploration permit.

185 General provision about the power to grant GHG authorities for land subject to other authorities

Subject to the other provisions of this chapter and chapters 2, 3 and 5, another Act relating to the granting of overlapping authorities for GHG authorities or an authority under that Act does not limit or otherwise affect—

- (a) the power under this Act to grant a GHG authority over land in the area of an overlapping authority for the proposed GHG authority; or
- (b) the carrying out of authorised activities for a GHG authority.

Part 2 Coordination arrangements for GHG leases

186 GHG coordination arrangements that may be made

- (1) The holder of a GHG lease may make an arrangement with the holder of an overlapping authority for the GHG lease about GHG stream storage under the lease.
- (2) A person who proposes to enter into a lease of a type mentioned in subsection (1) may enter into an arrangement mentioned in subsection (1).
- (3) An arrangement of a type mentioned in subsection (1) that under section 189, has taken effect and has not ceased to operate according to its terms and has not been cancelled under this part is a *GHG coordination arrangement*.
- (4) A lease or proposed lease of a type mentioned in subsection (1) is a *relevant lease* for a GHG coordination arrangement.

187 Other provisions about and effect of GHG coordination arrangement

- (1) A GHG coordination arrangement may—
 - (a) be for any term; and
 - (b) have more than 2 relevant leases; and
 - (c) be included in, or form part of, a coordination arrangement under the P&G Act.
- (2) A person other than the holder or proposed holder of a relevant lease may also be a party to the arrangement.
- (3) A proposed GHG coordination arrangement has no effect unless it is approved by the Minister under section 189.

188 Applying for ministerial approval of proposed GHG coordination arrangement

- (1) The parties to a proposed GHG coordination arrangement may jointly apply for approval of the arrangement.
- (2) The application must be—
 - (a) made to the Minister in the approved form; and
 - (b) accompanied by—
 - (i) the original or a certified copy of the proposed arrangement; and
 - (ii) the fee prescribed under a regulation.
- (3) If the proposed arrangement is inconsistent with the current development plan for the GHG lease, the application must be accompanied by a proposed later development plan for the lease.

189 Ministerial approval of proposed GHG coordination arrangement

- (1) The Minister may approve the proposed arrangement only if—
 - (a) the Minister is satisfied—
 - (i) the arrangement clearly identifies the safety responsibilities of each party to the arrangement for the land the subject of the arrangement; and
 - (ii) the spatial relationship between the relevant leases for the arrangement is appropriate; and
 - (b) for an application required to be accompanied by a proposed later development plan for a relevant lease—the proposed plan has been approved; and
 - (c) the arrangement is consistent with the purposes of this Act.
- (2) In considering whether to approve the proposed arrangement the Minister may have regard to any coordination arrangement

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or proposed coordination arrangement under the P&G Act or other agreement the Minister considers relevant.

- (3) The Minister may refuse to approve a proposed GHG coordination arrangement that provides for a party to the arrangement to be granted a pipeline licence for a GHG stream pipeline if the Minister considers that—
 - (a) having regard to the requirements under the P&G Act chapter 4, the pipeline licence would not be granted if the party were to apply for it; or
 - (b) not enough information has been given to decide whether the licence should be granted; or
 - (c) the spatial relationship between the GHG tenure and an overlapping authority is not appropriate for a GHG coordination arrangement.
- (4) If a relevant lease has not been granted, the approval does not take effect until the GHG tenure takes effect.

190 Approval does not confer right to surrender or renew

- (1) This section applies if the term of a GHG coordination arrangement is longer than the current term of any relevant lease for the arrangement.
- (2) To remove any doubt, it is declared that the approval of the arrangement does not impose an obligation or create a right—
 - (a) to approve a surrender application for a GHG lease; or
 - (b) to renew any other type of relevant lease.

191 Grant of pipeline licence

- (1) This section applies if a GHG coordination arrangement provides for a party to the arrangement to be granted a pipeline licence for a GHG stream pipeline.
- (2) The Minister may if the party applies under the P&G Act, chapter 4, part 2, grant the pipeline licence.

- (3) The P&G Act, section 412 applies as if the application were a pipeline licence application under that Act.
- (4) However, the provisions of the pipeline licence must be consistent with the arrangement.

192 Amendment or cancellation by parties to arrangement

- (1) A GHG coordination arrangement may be amended or cancelled by the parties to the arrangement only with the Minister's approval.
- (2) A purported amendment or cancellation of a GHG coordination arrangement by the parties to it has no effect unless it complies with subsection (1).

193 Minister's power to cancel arrangement

- (1) The Minister may by complying with subsections (2) and (3), cancel a GHG coordination arrangement.
- (2) If the Minister proposes to cancel the arrangement, the Minister must give each holder of a relevant lease a notice stating—
 - (a) that the Minister proposes to cancel the arrangement; and
 - (b) reasons for the proposed cancellation; and
 - (c) that the holder may make submissions to the Minister about the proposed cancellation or the likely impact of the cancellation on the relevant leases.
- (3) Before cancelling the arrangement, the Minister must consider—
 - (a) any submissions made by a holder within the stated period; and
 - (b) the likely impact of the cancellation on the relevant leases; and
 - (c) the public interest.

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- (4) If the Minister decides to cancel the arrangement, the Minister must give each of the holders an information notice about the decision.
- (5) The cancellation takes effect on the end of the appeal period for the decision to cancel or if a later day of effect is stated in the information notice, on that day.
- (6) When the decision takes effect, the arrangement and the Minister's approval of it cease to have effect.

194 Cancellation does not affect relevant leases

The cancellation of a former GHG coordination arrangement does not affect any relevant lease.

Part 3 Obtaining GHG lease if overlapping authority

Division 1 Preliminary

195 Application of pt 3

This part applies if—

- (a) a person (the *applicant*) wishes to make a GHG lease application; and
- (b) there is an overlapping authority for the proposed GHG lease.

Division 2 Requirements for application

196 Requirements for making application

- (1) The GHG lease application must include—
 - (a) a statement that complies with section 197 (a *GHG statement*); and
 - (b) other information that addresses the matters mentioned in subsection (2) (the *GHG assessment criteria*).
- (2) The GHG assessment criteria are—
 - (a) compliance with the P&G Act safety provisions; and
 - (b) the additional requirements under part 7 for proposed initial development plans; and
 - (c) the potential for the parties to make a GHG coordination arrangement for the proposed GHG lease; and
 - (d) the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed GHG lease and the overlapping authority; and
 - (e) the public interest.

197 Content requirements for GHG statement

- (1) The GHG statement must—
 - (a) assess—
 - (i) the likely effect of proposed GHG storage activities under the proposed GHG lease on the future use of resources under the overlapping authority; and
 - (ii) the technical and commercial feasibility of coordinating the proposed GHG storage activities and the future use of the resources; and
 - (b) include a proposed safety management plan for all operating plant proposed to be operated under the

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proposed GHG lease that may affect the possible future safe and efficient use of the resources.

- (2) The proposed safety management plan must—
 - (a) for activities of the plant that may affect future safe and efficient future use of the resources—comply with the requirements under the P&G Act, section 675, for a safety management plan; and
 - (b) include proposals for the minimisation of potential adverse effects on possible future safe and efficient use of the resources under the overlapping authority.

Division 3 Consultation provisions

198 Applicant's information obligation

- (1) The applicant must within 10 business days after making the GHG lease application give the overlapping authority holder a copy of the application other than any part of the application relating to the capability criteria.
- (2) If the Minister is reasonably satisfied the applicant has not complied with subsection (1), the Minister may refuse the application.

199 Submissions by overlapping authority holder

- (1) The overlapping authority holder may make submissions to the Minister about the GHG lease application (*holder submissions*).
- (2) However, holder submissions may be made only within 4 months after the holder is given a copy of the application.
- (3) Holder submissions may do all or any of the following—
 - (a) state that the holder does not object to the granting of the proposed GHG lease;

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- (b) if the overlapping authority is an exploration authority (non-GHG) other than a geothermal exploration permit—state that the holder does not wish any priority for the resource for which the overlapping authority was granted (*overlapping authority priority*);
 - (c) include information about authorised activities carried out under the overlapping authority;
 - (d) include a proposal by the overlapping authority holder for the use of the resource;
 - (e) include information relevant to the GHG assessment criteria;
 - (f) propose reasonable provisions for the safety management plan for the proposed GHG lease.
- (4) The holder must give the applicant a copy of the holder submissions.

Division 4 Resource management decision if overlapping non-geothermal authority about exploration

200 Application of div 4

- (1) This division applies if—
 - (a) the overlapping authority is an exploration authority (non-GHG) other than a geothermal exploration permit; and
 - (b) the overlapping authority holder has made holder submissions within 4 months after the holder was given a copy of the application; and
 - (c) the submissions state that the holder wishes overlapping authority priority.

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- (2) However, this division does not apply if under another Act about the overlapping authority, overlapping authority priority has been given for any of the relevant land.

Note—

If this division does not apply, the GHG lease application proceeds immediately to decision under chapter 3 as affected by division 7.

201 Resource management decision

The Minister must make a decision (the *resource management decision*) about whether to—

- (a) grant the GHG lease application; or
- (b) give any overlapping authority priority for all or part of the relevant land; or
- (c) not to grant the GHG lease application and not to give any overlapping authority priority for any of the relevant land.

202 Criteria for decision

In making the resource management decision the Minister must have regard to—

- (a) the GHG statement; and
- (b) the GHG assessment criteria; and
- (c) the holder submissions; and
- (d) the public interest.

203 Restrictions on giving overlapping authority priority

Overlapping authority priority may be given only if the Minister considers that—

- (a) either—

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- (i) it is unlikely that the applicant and the overlapping authority holder will enter into a GHG coordination arrangement; or
 - (ii) a GHG coordination arrangement for the proposed GHG lease is not commercially or technically feasible; and
- (b) the public interest would be best served by not granting a GHG lease to the applicant first.

Division 5 Process if resource management decision is to give overlapping authority priority

204 Application of div 5

This division applies only if—

- (a) under division 4, a resource management decision is required for the GHG lease application; and
- (b) that decision was to give overlapping authority priority for all or part of the relevant land.

205 Notice to applicant and overlapping authority holder

- (1) The chief executive must give the applicant and the overlapping authority holder notice of the resource management decision.
- (2) The notice must invite the overlapping authority holder to within 6 months after the giving of the notice (the ***overlapping authority application period***) apply for a lease under the Act under which the overlapping authority was granted (a ***relevant lease***)—
 - (a) if the priority is for all of the land—for all of the land; or
 - (b) if the priority is for part of the land—for that part.

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206 Relevant lease application for all of the land

- (1) This section applies if the priority is for all of the land and within the overlapping authority application period the overlapping authority holder applies for a relevant lease for all of the land.
- (2) A further step can not be taken to decide the GHG lease application until after the relevant lease application has been decided.

Note—

Acts under which the overlapping authority was granted provide for refusal of the relevant lease application if it is not pursued in a timely manner.

- (3) If the decision on the relevant lease application is to grant a relevant lease for all of the land, the GHG lease application is taken to have lapsed.

207 Relevant lease application for part of the land

- (1) This section applies if the overlapping authority holder applies for a relevant lease for part of the land within the overlapping authority application period.
- (2) The person who made the GHG lease application may amend it so that a GHG lease is only sought for all or part of the rest of the land.
- (3) Unless the amendment is made, a further step can not be taken to decide the GHG lease application until after the relevant lease application has been decided.
- (4) If—
 - (a) the amendment has not been made; and
 - (b) the decision on the relevant lease application is to grant a relevant lease for part of the land;

the person who made the GHG lease application may amend it so that a GHG lease is only sought for all or part of the rest of the land.

Note—

If the GHG lease application is not amended, see section 211 (Application may be refused if no reasonable prospects of GHG coordination arrangement).

208 No relevant lease application

If the overlapping authority holder does not apply for a relevant lease for any of the land within the overlapping authority application period, the GHG lease application may be decided.

Division 6 Resource management decision not to grant and not to give priority

209 Lapsing of application

The GHG lease application is taken to have lapsed if—

- (a) under division 4, a resource management decision is required; and
- (b) that decision was not to grant the GHG lease application and not to give any overlapping authority priority for any of the relevant land.

Division 7 Deciding application

210 Application of div 7

This division applies if—

- (a) the overlapping authority holder has not made holder submissions within 4 months after the holder was given a copy of the application (the *submission period*) or at all; or

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- (b) the overlapping authority holder has made holder submissions within the submission period stating that the holder does not wish any overlapping authority priority; or
- (c) under division 4, a resource management decision is required and—
 - (i) the resource management decision was not to give overlapping authority priority for any of the relevant land; or
 - (ii) the resource management decision was to give overlapping authority priority for all or part of the relevant land and after division 5 has been complied with the Minister decides to grant a GHG lease for the land.

211 Application may be refused if no reasonable prospects of GHG coordination arrangement

The Minister may decide to refuse the application if—

- (a) the Minister is satisfied the applicant and the overlapping authority holder have made reasonable attempts to reach a proposed GHG coordination arrangement (a *relevant arrangement*) for the proposed GHG lease; and
- (b) either—
 - (i) the overlapping authority holder has given the Minister a notice stating there are no reasonable prospects of a relevant arrangement being made; or
 - (ii) the Minister has not been given a relevant arrangement for approval and the Minister considers the applicant and the overlapping authority holder have had a reasonable opportunity to make a relevant arrangement.

212 Additional criteria for deciding provisions of GHG lease

In deciding the provisions of the GHG lease the Minister must consider the following—

- (a) the GHG statement;
- (b) the GHG assessment criteria;
- (c) any holder submissions;
- (d) the affect of the GHG lease on safe and efficient use of resources under any overlapping lease for the GHG lease;
- (e) the affect on safe and efficient use of resources under any future lease for the GHG lease that may arise from the overlapping authority.

213 Publication of outcome of application

- (1) After the Minister decides whether or not to grant the GHG lease, the chief executive must publish a notice about the outcome of the GHG lease application in or on at least 1 of the following—
 - (a) the gazette;
 - (b) the department's website;
 - (c) another publication the chief executive considers appropriate.
- (2) The notice must state—
 - (a) the decision; and
 - (b) if the decision was to grant the GHG lease—all conditions of the GHG lease other than the mandatory conditions; and
 - (c) if under division 4, a resource management decision was required and that decision was to give overlapping authority priority for all or part of the land—the decision and the reasons for it.

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- (3) However, if the chief executive considers that information in any condition is commercial-in-confidence, the chief executive may instead of publishing the condition publish a statement about the intent of the condition.

Part 4

Priority to particular mining or petroleum lease applications

214 Earlier mining or petroleum lease application

If—

- (a) a GHG lease application is made; and
- (b) before the making of that application an application was made for a mining lease or petroleum lease; and
- (c) the mining lease or petroleum lease application had not been decided before the making of the GHG lease application; and
- (d) if the GHG lease and the mining lease or petroleum lease were both granted, the mining lease or petroleum lease would be an overlapping authority for the GHG lease;

the GHG lease application must not be decided until the mining lease or petroleum lease application has been decided.

215 Proposed mining or petroleum lease for which EIS approval given

- (1) This section applies for a GHG lease application if—
- (a) before the making of the application, an approval under the Environmental Protection Act, chapter 3, part 2, was granted for the voluntary preparation of an EIS; and

- (b) the EIS is for a project that is or includes a proposed mining lease or petroleum lease for land the subject of the application.
- (2) The application must not be decided until—
 - (a) if no application is made for the mining lease or petroleum lease within 1 year after the granting of the approval—the end of that year; or
 - (b) if an application is made for the mining lease or petroleum lease within that year—that application is decided.

216 Proposed mining or petroleum lease declared a significant project

- (1) This section applies for a GHG lease application if—
 - (a) before the making of the application, a significant project was declared; and
 - (b) the project is or includes a proposed mining lease or petroleum lease for land the subject of the application.
- (2) The application must not be decided until—
 - (a) if no application is made for the mining lease or petroleum lease within 1 year after the making of the declaration—the end of that year; or
 - (b) if an application is made for the GHG lease within that year—that application is decided.

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Part 5

GHG lease applications in response to invitation under another Act

217 Application of pt 5

This part applies if—

- (a) a GHG lease application is made in response to an invitation given because of a resource management decision under another Act; and
- (b) the application is made within 6 months after the giving of the invitation.

218 Additional ground for refusing application

- (1) The Minister may decide to refuse the GHG lease application if satisfied the applicant has not in a timely manner—
 - (a) taken any step for the application required of the applicant under chapter 3 or this chapter; or
 - (b) satisfied the Minister about a matter that under chapter 3 or this chapter, is required for the granting of the application.
- (2) Subsection (2) does not limit section 413.

Editor's note—

section 413 (Additional information may be required about application)

Part 6 Additional provisions for GHG authorities

Division 1 Restrictions on authorised activities other than for GHG leases

219 Overlapping mining or petroleum lease

- (1) This section applies if land is in the area of both of the following—
 - (a) a GHG authority other than a GHG lease;
 - (b) a mining lease or petroleum lease.
- (2) However, this section does not apply if the same person holds the mining lease or petroleum lease and the GHG authority.
- (3) An authorised activity for the GHG authority may be carried out on the land only if—
 - (a) the mining lease or petroleum lease holder has not in the way required under subsection (4), objected to—
 - (i) the carrying out of the activity; or
 - (ii) if the P&G Act safety provisions require a safety management plan for the GHG authority holder—the safety management plan; or
 - (b) if an objection under paragraph (a) has been made—the Minister has decided under section 221 that the authorised activity may be carried out.

Note—

For notice of authorised activities, see section 223.

- (4) The objection must be by a notice given to the Minister and the GHG authority holder.

Note—

See also the Mineral Resources Act, section 403 (Offences regarding land subject to mining claim or mining lease).

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220 Overlapping exploration authority (non-GHG)

- (1) This section applies if land is in the area of both of the following—
 - (a) a GHG authority other than a GHG lease;
 - (b) an exploration authority (non-GHG).
- (2) An authorised activity for the GHG authority can not be carried out on the land if—
 - (a) carrying it out adversely affects the carrying out of an authorised activity for the exploration authority (non-GHG); and
 - (b) the authorised activity for the exploration authority (non-GHG) has already started.

221 Resolving disputes

- (1) This section applies if under section 219, a mining lease or petroleum lease holder has objected to the carrying out of a GHG storage activity by a GHG authority holder.
- (2) This section also applies if there is a dispute between a GHG permit holder and an exploration authority (non-GHG) holder about whether an authorised activity for the GHG permit can be carried out under section 220.
- (3) Either of the parties may by a notice in the approved form ask the Minister to decide—
 - (a) for section 219—whether the authorised activity may be carried out under that section; or
 - (b) for section 220—whether the authorised activity may be carried out under that section.
- (4) Before making the decision the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.

-
- (5) The Minister must, after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.
 - (6) The Minister's decision binds the parties.
 - (7) If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.
 - (8) In this section—
parties means—
 - (a) for a request about a matter mentioned in subsection (1)—the GHG authority holder and the lease holder; or
 - (b) for a request about a matter mentioned in subsection (2)—the GHG permit holder and the exploration authority (non-GHG) holder.

Division 2 Additional conditions

222 Notice of grant by particular GHG authority holders

- (1) This section applies if—
 - (a) a GHG authority other than a GHG lease is granted; and
 - (b) land in the GHG authority's area is in the area of or in a proposed area under an application for any of the following other authorities—
 - (i) an exploration authority (non-GHG);
 - (ii) a GHG data acquisition authority;
 - (iii) a data acquisition authority under the P&G Act;
 - (iv) a water monitoring authority under the P&G Act.
- (2) It is a condition of the GHG authority that its holder must within 20 business days after the holder receives notice of the grant, give the holder of or applicant for the other authority a notice stating—

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- (a) that the GHG authority has been granted; and
- (b) the GHG authority holder's name; and
- (c) the term of the GHG authority.

223 Condition to notify particular other authority holders of proposed start of particular authorised activities

- (1) This section applies to a GHG authority holder if—
 - (a) there is any of the following (the *other authority*) for the GHG authority—
 - (i) an overlapping authority;
 - (ii) a geothermal exploration permit, mining lease or petroleum tenure that shares a common boundary with the GHG authority; or
 - (b) land in the GHG authority's area is in the area of a data acquisition authority under the P&G Act (also the *other authority*).
- (2) Before the GHG authority holder first starts a designated activity in the other authority's area, the GHG authority holder must give the other authority holder at least 30 business days notice of the activity.
- (3) A notice under subsection (2) must state—
 - (a) when the designated activity is to start; and
 - (b) where the designated activity is to be carried out; and
 - (c) the nature of the activity.
- (4) Before changing the land on which the designated activity is being carried out, the GHG authority holder must give the other authority holder at least 30 business days notice stating where the activity is to be carried out.
- (5) Compliance with this section is a condition of the GHG authority.
- (6) In this section—

designated activity means any authorised activity for the GHG authority other than—

- (a) an incidental activity under section 31 or 112; or
- (b) an activity that only involves selecting places where other authorised activities for the GHG authority may be carried out.

224 Continuance of GHG coordination arrangement after transfer

- (1) This section applies if—
 - (a) there is an overlapping authority for a GHG lease; and
 - (b) a GHG coordination arrangement applies to the GHG lease; and
 - (c) the GHG lease is transferred.
- (2) It is a condition of the GHG lease that its holder must continue to be a party to a GHG coordination arrangement for the lease while the overlapping authority continues in force.

Division 3 Restriction on Minister’s power to amend GHG lease if overlapping authority

225 Interests of overlapping authority holder to be considered

If there is an overlapping authority for a GHG lease, it may be amended under section 374 only if the interests of the overlapping authority holder have been considered.

Part 7

Additional provisions for development plans if overlapping authority

226 Operation of pt 7

This part imposes additional requirements for the following for a GHG lease or proposed GHG lease for which there is an overlapping authority—

- (a) a proposed initial development plan;
- (b) a proposed later development plan;
- (c) a proposed amendment under an application to amend a development plan.

227 Statement about interests of overlapping authority holder

The proposed plan or amendment must include a statement of how the effects on and the interests of any overlapping authority holder have or have not been considered, having regard to the GHG assessment criteria.

228 Consistency with overlapping authority's development plan and with any relevant coordination arrangement

- (1) To the extent the area of the GHG lease and the overlapping authority coincide or will coincide, the proposed plan or amendment must be consistent with any GHG coordination arrangement for that area.
- (2) Subsection (3) applies if the overlapping authority is a mining lease or petroleum lease.
- (3) The proposed plan or amendment must to the extent the area of the GHG lease and the mining lease or petroleum lease coincide or will coincide be consistent with the development plan for the overlapping authority.

229 Additional criteria for approval

In deciding whether to approve the proposed plan or amendment the Minister must consider the GHG assessment criteria.

Part 8 Additional provisions for safety management plans

230 Grant of GHG lease does not affect obligation to make plan

- (1) This section applies if a GHG statement accompanies a GHG lease application as required under this chapter.
- (2) The deciding of the application or the grant of the GHG lease—
 - (a) does not affect the obligation under the P&G Act safety provisions to make a safety management plan for any operating plant in the GHG lease's area; and
 - (b) is not of itself evidence that a safety management plan, or purported safety management plan, for an operating plant in the GHG lease's area complies with those provisions.

231 Requirements for consultation with particular overlapping authority holders

- (1) This section applies if—
 - (a) a person (an *operator*) proposes to be an operator of operating plant under the P&G Act in the area of a GHG tenure; and
 - (b) the operating plant is used or is proposed to be used for GHG storage activities (*relevant operating plant*); and

[s 231]

- (c) activities (*relevant activities*) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient use of resources under an overlapping authority for the GHG tenure.
- (2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the overlapping authority holder about relevant activities for the plant.
- (3) If there is more than 1 operator, the GHG tenure holder may coordinate the consultation between the operators and the overlapping authority holder.
- (4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—
 - (a) the operator gives the overlapping authority holder a copy of the parts of the operator's proposed safety management plan concerning any relevant operating plant the operator proposes to operate for the relevant activities; and
Editor's note—
section 197 (Content requirements for GHG statement)
 - (b) the overlapping authority holder has not within 30 days after the giving of the copy made any proposal to the operator about provisions for the plan.
- (5) An operator must before making or remaking a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the plan proposed by the overlapping authority holder concerning relevant activities for the plant.
- (6) However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant GHG tenure holder.
- (7) If an operator makes a safety management plan for relevant operating plant that includes provisions proposed by the overlapping authority holder, the operator must—

- (a) give the overlapping authority holder a copy; and
 - (b) give the chief inspector under the P&G Act a notice stating any provisions proposed under subsection (5) and whether they were included in the plan.
- (8) In this section—
- remaking*, a safety management plan, includes an amendment or remaking of the plan of a type required under the P&G Act, section 678.

232 Application of P&G Act provisions for resolving disputes about reasonableness of proposed provision

- (1) This section applies if a dispute exists between an operator under section 231 and an overlapping authority holder about the reasonableness of a provision proposed by the overlapping authority holder for the operator's proposed safety management plan.
- (2) The P&G Act, section 387, chapter 12 and schedule 1 apply to the dispute as if it were a dispute to which section 387 of that Act applies.

Editor's note—

P&G Act, chapter 12 and schedule 1 (Reviews and appeals)

Chapter 5 General provisions for GHG authorities

Part 1 GHG injection and storage data acquisition authorities

Division 1 Obtaining authority

233 Who may apply for GHG data acquisition authority

- (1) A GHG tenure holder may apply for a GHG data acquisition authority to allow the applicant to carry out the following activities (*data acquisition activities*)—
 - (a) geophysical surveys on land (the *data acquisition land*) contiguous to land in the GHG tenure's area to enable the applicant to acquire data relevant to authorised activities under the tenure;
 - (b) the entering of the data acquisition land to carry out the geophysical surveys.
- (2) However, the application can not be made or granted for land in the area of another GHG tenure.
- (3) The GHG tenure mentioned in subsection (1) is the *relevant GHG tenure* for the GHG data acquisition authority or proposed GHG data acquisition authority.

234 Requirements for making application

The application must be—

- (a) made to the Minister in the approved form; and
- (b) accompanied by the fee prescribed under a regulation.

235 Deciding application

- (1) The Minister may grant or refuse the GHG data acquisition authority.
- (2) However, the GHG data acquisition authority can not be granted unless a relevant environmental authority has been issued.
- (3) The Minister may as a condition of deciding to grant the GHG data acquisition authority, require the applicant to do all or any of the following within a stated reasonable period—
 - (a) pay the annual rent for the GHG data acquisition authority;
 - (b) give under section 271, security for the GHG data acquisition authority.
- (4) If the applicant does not comply with the requirement, the application may be refused.

236 Provisions of authority

- (1) A GHG data acquisition authority must state its term and area.
- (2) The term must end no later than 1 year after the authority takes effect.
- (3) The GHG data acquisition authority may also state—
 - (a) conditions or other provisions of the GHG data acquisition authority other than conditions or provisions that are—
 - (i) inconsistent with section 238, 239 or 243 or any other mandatory condition for data acquisition authorities; or

Note—

Other provisions of this chapter also impose mandatory conditions on data acquisition authorities. See, in particular, part 12.

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- (ii) inconsistent with a condition of the relevant GHG tenure; or
 - (iii) the same as or substantially the same as or inconsistent with any relevant environmental condition; and
- (b) the day it takes effect.
- (4) However, the provisions of the GHG data acquisition authority may exclude or restrict the carrying out of data acquisition activities.

237 Notice of refusal

If the Minister decides to refuse the application, the Minister must give the applicant notice of the decision.

Division 2 Provisions for GHG data acquisition authorities

238 Key authorised activities

A GHG data acquisition authority authorises its holder to carry out data acquisition activities in the authority's area.

Notes—

- 1 For other authorised activities, see parts 7, division 4 (Access to private land outside area of GHG authority) and 12 (General provisions for conditions and authorised activities).
- 2 For general restrictions on authorised activities, their relationship with owner's and occupiers' rights and who may carry out authorised activities for a GHG authority holder, see part 12, division 3.

239 Additional condition of relevant GHG tenure

If a condition is imposed on a GHG data acquisition authority (the *authority condition*), it is a condition of the relevant

GHG tenure that the tenure holder must comply with the authority condition.

240 Authority holder is the relevant GHG tenure holder from time to time

The holder of a GHG data acquisition authority is taken to be the person who, from time to time, holds the relevant GHG tenure.

241 Authority ends if relevant GHG tenure ends

- (1) A GHG data acquisition authority ends if the relevant GHG tenure ends.
- (2) Subsection (1) applies subject to any noncompliance action taken for the GHG data acquisition authority or the relevant GHG tenure.

242 Relationship with subsequent GHG tenure

- (1) This section applies if a GHG tenure is granted over land in the area of a GHG data acquisition authority
- (2) The grant does not limit the GHG data acquisition authority or its term.
- (3) However, an authorised activity for the GHG data acquisition authority may be carried out on the land only if—
 - (a) carrying out the activity does not adversely affect the carrying out of an authorised activity for the GHG tenure; or
 - (b) the agreement conditions have been complied with.
- (4) In this section—

agreement conditions means that—

 - (a) the GHG tenure holder has agreed in writing to the carrying out of the activity; and

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- (b) a copy of the agreement has been given to the chief executive; and
- (c) the agreement is still in force.

243 Annual rent

- (1) A GHG data acquisition authority holder must pay the State the rent as prescribed under a regulation.

Note—

See also section 372 (Interest on amounts owing to the State)

- (2) The rent must be paid in the way, and on or before the day, prescribed under a regulation.

244 End of authority report for GHG data acquisition authority

- (1) This section applies if a data acquisition authority ends.
- (2) The person who held the authority immediately before it ended must, within 6 months give in the required way the chief executive a report relating to the former authority about the matters mentioned in section 259.

Maximum penalty—150 penalty units.

- (3) However, subsection (2) applies only to the extent the matters are relevant to the former authority.

Part 2 **GHG storage viability assessment**

245 Minister's power to require GHG viability report

- (1) The Minister may by notice (a *report requirement*) require a GHG tenure holder to give the Minister a report (a *GHG viability report*) about all or a stated part of its area if—
- (a) the holder is not carrying out GHG storage exploration or GHG stream storage in the area or stated part; and
 - (b) the Minister is of the opinion that—
 - (i) it is viable to carry out GHG stream storage in the area or stated part; or
 - (ii) it may be viable to carry out GHG stream storage in the area or stated part within 10 years.

Note—

For the relevance of this period, see section 102 (Deciding potential storage area application).

- (2) The notice must state each of the following—
- (a) the Minister's opinion under subsection (1)(b)(i) or (ii);
 - (b) the facts and circumstances forming the basis for the opinion;
 - (c) that the Minister requires the holder to give the Minister a GHG viability report about the area;
 - (d) a reasonable period for giving the report.

246 Required content of GHG viability report

- (1) A GHG viability report must—
- (a) identify each GHG storage reservoir in the area the subject of the relevant report requirement; and

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- (b) state whether in the opinion of the relevant GHG tenure holder, it is currently viable to carry out GHG stream storage in the area; and
 - (c) if the holder's opinion is that it is not viable to carry out GHG stream storage in the area, state—
 - (i) whether in the holder's opinion, it may at any time in the future be viable to carry out GHG stream storage in the area; and
 - (ii) if the opinion is that it may at some time in the future be viable to carry out GHG stream storage in the area—the holder's assessment of when that time may be; and
 - (d) give data, and an analysis of the data, that supports each opinion.
- (2) The supporting data and analysis must include—
- (a) technical data relating to the geology of GHG storage reservoirs in the area; and
 - (b) market and financial data relevant to the opinions.

247 Minister's power to obtain independent viability assessment

- (1) This section applies for a GHG tenure, whether or not its holder has given a GHG viability report about the tenure.
- (2) The Minister may obtain an independent assessment of the viability of carrying out GHG stream storage in all or part of the GHG tenure's area (an *independent viability assessment*).
- (3) However, before seeking the assessment, the Minister must give the holder a notice stating each of the following—
 - (a) that the Minister proposes to obtain the assessment;
 - (b) the Minister's reasons for seeking the assessment;
 - (c) whether the State will under section 248, seek to recover the costs of the assessment;

- (d) that the holder may within a stated reasonable period make submissions to the Minister about the proposed assessment.
- (4) The Minister must consider any submissions made under subsection (3)(d).
- (5) The Minister must after receiving the assessment, give the holder a copy.

248 Costs of independent viability assessment

If—

- (a) the Minister has incurred costs in obtaining under section 247, an independent viability assessment about a GHG tenure; and
- (b) the notice under section 247 about the assessment stated that the State will seek to recover the costs; and
- (c) the Minister has given the GHG tenure holder a notice requiring the holder to pay a reasonable amount for the costs;

the holder must pay the State a reasonable amount for the costs.

Part 3 Ownership and decommissioning of GHG stream pipelines

249 Application of pt 3

This part applies for a pipeline constructed or operated under a GHG tenure.

[s 250]

Note—

See sections 31 (Incidental activities) and 111 (GHG stream pipeline and water pipeline construction and operation).

250 General provision about ownership while tenure is in force for pipeline

- (1) This section applies while the land on which the pipeline is constructed is, and continues to be, in the GHG tenure's area.
- (2) The pipeline is taken to be the personal property of the holder of the GHG tenure.
- (3) The pipeline remains the holder's personal property despite—
 - (a) it having become part of the land; or
 - (b) the sale or other disposal of the land.
- (4) The pipeline can not be—
 - (a) levied or seized in execution; or
 - (b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder or the owner of the land.
- (5) Subsections (2) to (4) apply despite—
 - (a) an Act or law of a State; or
 - (b) a contract, covenant or claim of right under a law of a State.

251 Ownership afterwards

- (1) This section applies if the GHG tenure (the *original tenure*) ends or the land on which the pipeline is constructed ceases to be in the original tenure's area.
- (2) Section 250 applies and continues to apply for the pipeline and for any subsequent GHG tenure to the original tenure or pipeline licence for the pipeline.
- (3) However, the application of section 250 is subject to—

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- (a) section 356; and
Editor's note—
section 356 (Power of authorised person to ensure compliance)
 - (b) any condition of the former tenure.
- (4) Also, if the pipeline is decommissioned under section 252 the following person may dispose of it to anyone else—
- (a) if no subsequent GHG tenure was granted for the land—the holder or former holder of the original tenure;
 - (b) if a subsequent GHG tenure was granted for the land—the holder or former holder of that tenure.

252 Obligation to decommission pipelines on cessation or reduction of tenure

- (1) The holder of a GHG tenure must before the decommissioning day, decommission in the way prescribed under a regulation any pipeline in the tenure's area.
- (2) However, subsection (1)—
 - (a) does not apply if the pipeline was constructed or operated under another GHG tenure or a petroleum authority; and
 - (b) ceases to apply if the operation of the pipeline becomes an authorised activity for another GHG tenure or a petroleum authority.
- (3) Also, subsection (1) does not apply for a pipeline if—
 - (a) the pipeline was constructed or operated under a pipeline licence; and
 - (b) the licence is under the P&G Act, surrendered or otherwise ends for the purpose of the pipelines the subject of the licence becoming the subject of another pipeline licence.
- (4) In this section—

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decommissioning day means the latest of the following days—

- (a) the earlier of the following—
 - (i) the day the GHG tenure ends;
 - (ii) the day the land ceases to be in the GHG tenure's area;
- (b) if before the day provided for under paragraph (a), the Minister fixes a day—that day;
- (c) if before a day fixed under paragraph (b), the Minister fixes a later day—that day.

Part 4 Reporting and information provisions

Division 1 General reporting provisions

253 Requirement of GHG tenure holder to report outcome of GHG storage injection testing

- (1) This section applies if a GHG tenure holder carries out GHG storage injection testing.
- (2) The holder must within 40 business days after the testing ends give the chief executive a report stating the outcome of the testing.
- (3) The report must also state how much water was taken during the testing.

254 Monitoring reports by GHG lease holder

- (1) This section applies to the holder of a GHG lease.

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- (2) The holder must within 2 months after each of its anniversary days give each relevant chief executive a monitoring report for the 12 months that ended on the last anniversary day.

Maximum penalty—150 penalty units.

- (3) Any relevant chief executive may by notice require the holder to within 30 business days give each relevant chief executive a monitoring report for the period since—
- (a) the holder last gave a monitoring report under subsection (2); or
 - (b) if a monitoring report has not yet been required to be given under subsection (2)—the granting of the GHG lease.

- (4) The holder must comply with a notice given under subsection (3).

Maximum penalty—150 penalty units.

- (5) In this section—

anniversary day, for a GHG lease, means each day that is the anniversary of the day on which it took effect.

monitoring report means a report about the expected migration pathway or pathways of GHG streams during and after injection into GHG storage reservoirs under the GHG lease.

relevant chief executive means—

- (a) the chief executive of the department in which this Act is administered; or
- (b) the chief executive of the department in which the Environmental Protection Act is administered; or
- (c) the chief executive of the department in which the Water Act is administered.

[s 255]

255 Relinquishment report by GHG permit holder

- (1) If part of the area of a GHG permit is relinquished as required or authorised under this Act, its holder must within 6 months give the chief executive a report that—
 - (a) describes—
 - (i) the authorised activities for the GHG permit carried out in the part; and
 - (ii) the results of the activities; and
 - (b) includes other information prescribed under a regulation.

Maximum penalty—200 penalty units.

- (2) The report must—
 - (a) be given electronically using the system for submission of reports made or approved by the chief executive; and
 - (b) be in the digital format made or approved by the chief executive.
- (3) The chief executive must ensure the system and a document detailing the digital format made or approved by the chief executive are available for inspection on the department's website.
- (4) The requirements under subsection (2) are the *required way* for giving the chief executive reports.

256 End of tenure report

If a GHG tenure ends, the person who held the tenure immediately before it ended must, within 6 months, give the chief executive a report in the required way that—

- (a) includes all of the following—
 - (i) a summary of all authorised activities for the GHG tenure carried out for the tenure since it took effect;
 - (ii) a summary of the results of the activities;

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- (iii) an index of all reports given as required under this Act, for the activities;
 - (iv) a summary of all significant hazards created to future safe and efficient mining that under the P&G Act safety provisions, are required to be reported by the person;
 - (v) for each hazard mentioned in the summary under subparagraph (iv)—a reference to the report that contains details of the hazard;
 - (vi) information about the amount and location of GHG stream storage done in, and water produced from, the GHG tenure's area;
 - (vii) any information related to information mentioned in subparagraph (vi) that may help the understanding of the size or amount and location of any GHG stream storage sites in, or water that may be produced from, the area;
 - (viii) any information required to be reported under this Act that has not been previously reported; and
- (b) states any other information prescribed under a regulation.

Maximum penalty—150 penalty units.

257 Power to require information or reports about authorised activities to be kept or given

- (1) A regulation or the chief executive may for the services of the State require a GHG authority holder to—
- (a) keep in a stated way stated information or types of information about authorised activities carried out under the GHG authority; or

Example of a way of keeping information—

in a stated digital format

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- (b) give the chief executive a notice giving stated information or types of information or stated reports at stated times or intervals about authorised activities carried out under the GHG authority.

Example of a stated time—

for a report about a GHG well, 6 months after its completion

- (2) For subsection (1), the information or report required to be given or kept may be—
 - (a) exploration data; or
 - (b) opinions, conclusions, technical consolidations and advanced interpretations based on exploration data.
- (3) A notice under subsection (1)(b)—
 - (a) may state—
 - (i) a format required for giving the information; and
 - (ii) a degree of precision required for the giving of the information; and
 - (b) must be given to the chief executive and be in the approved form.
- (4) A person of whom a requirement under subsection (1) has been made must comply with the requirement.

Maximum penalty—100 penalty units.

- (5) In this section—

information includes documents, records and samples.

Division 2 Records and samples

258 Requirement to keep records and samples

- (1) A GHG tenure holder must for the period and in the way prescribed under a regulation keep the records and samples

about authorised activities carried out under the tenure as prescribed under a regulation.

Maximum penalty—500 penalty units.

- (2) For subsection (1), the prescribed records may be—
 - (a) exploration data; or
 - (b) opinions, conclusions, technical consolidations and advanced interpretations based on exploration data.

259 Requirement to give records and samples

- (1) A person who under section 258, is required to keep a record or sample must for the services of the State give a copy of the record and a part of the sample to the chief executive within 6 months after the earlier of the following (the *required time*)—
 - (a) the day the record or sample was acquired or made;
 - (b) the day the relevant GHG tenure ends.

Maximum penalty—500 penalty units.

- (2) The copy of the record must be given in the required way for giving reports to the chief executive.
- (3) If the chief executive gives the person a notice asking the person for more of the sample, the person must give it to the chief executive at the address stated in the notice within the reasonable time stated in the notice (also the *required time*) unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

- (4) The chief executive may extend the required time by up to 1 year if—
 - (a) the person asks for the extension before the required time ends; and
 - (b) the chief executive is satisfied the extension is necessary.

[s 260]

- (5) However, the extension must not end later than—
 - (a) for subsection (1)—6 months after the required time ends; or
 - (b) for subsection (3)—1 year after the required time ends.
- (6) Without limiting subsection (1), the uses to which the State may put the copy of the record and the part of the sample may include—
 - (a) the building of a publicly available database to facilitate petroleum exploration for the services of the State; and
 - (b) GHG exploration.

Division 3 Releasing required information

260 Meaning of *required information*

The *required information*, for a GHG authority, is information (in any form) about authorised activities carried out under the authority that the authority holder has given under this Act, including for example—

- (a) a sample; and
- (b) data and other matters mentioned in section 257(2).

261 Public release of required information

- (1) The mere fact of the existence of a GHG authority is taken to be an authorisation from its holder to the chief executive to do the following, after the end of any confidentiality period prescribed under a regulation—
 - (a) publish in the way prescribed under a regulation required information for the GHG authority for public use;
 - (b) on payment of a fee prescribed under a regulation, make it available to any person.

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- (2) Any confidentiality period prescribed under subsection (1) ceases if the information is about an authorised activity carried out only in an area that is no longer in the GHG authority's area.

Example—

The required information is a well completion report about a well drilled on particular land in the area of a GHG permit. Subsection (1) ceases to apply if all of that land is relinquished under the relinquishment condition.

- (3) The authorisation is not affected by the ending of the GHG authority.

262 Chief executive may use required information

- (1) The mere fact of the existence of a GHG authority is taken to be an authorisation from its holder to the chief executive to use required information for—
- (a) purposes reasonably related to this Act that are required for the GHG authority; or
 - (b) the services of the State.
- (2) The authorisation is not affected by the ending of the GHG authority.

Part 5 General provisions for wells

Division 1 Responsibility for wells

263 Former petroleum wells assumed by GHG tenure holder

If under the P&G Act, section 292(3)(c), a GHG tenure holder assumes responsibility for a well, this Act applies to the holder in relation to the well as if it were a GHG well.

[s 264]

264 Requirements for drilling GHG well

A person drilling a GHG well must comply with—

- (a) any requirements prescribed under a regulation for the drilling of the GHG well; and
- (b) any relevant requirements about construction and drilling standards for water bore drilling activities under the Water Act.

Maximum penalty—500 penalty units.

Division 2 Decommissioning of wells

265 Application of div 2

This division applies to the following wells in the area of a GHG tenure—

- (a) a GHG well drilled by or for the GHG tenure holder;
- (b) a well that is or has been a petroleum well for which the holder has under the P&G Act, section 292(3)(c), assumed responsibility.

266 Restriction on decommissioning well

It is a condition of the GHG tenure that the GHG tenure holder may decommission the well only if the GHG storage reservoir to which the well relates has no available storage capacity for any further injection for GHG storage.

267 Obligation to decommission

- (1) Subject to section 266, the GHG tenure holder must ensure the well is decommissioned from use under this Act before—
 - (a) for a GHG lease—the GHG storage reservoir to which the well relates has no available storage capacity for any further injection for GHG storage; or

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- (b) for a GHG permit—the permit ends or the land on which the well is located ceases to be in the permit’s area.

Maximum penalty—500 penalty units.

- (2) However, subsection (1) does not apply for land that, under section 48(1), ceases to be in the area of a GHG permit.
- (3) For subsection (1), the well is decommissioned from use under this Act only if—
 - (a) it has been plugged and abandoned in the way prescribed under a regulation; and
 - (b) any relevant requirements under the Water Act for the decommissioning of water bores have been complied with; and
 - (c) the responsible person has given the Water Act Minister a notice in the approved form about the decommissioning.

268 Right of entry to facilitate decommissioning for GHG permit

- (1) This section applies if—
 - (a) the GHG tenure is a GHG permit; and
 - (b) the GHG permit has ended or the land on which the well is located is no longer in the GHG tenure’s area; and
 - (c) the GHG permit holder or former holder has not carried out decommissioning as required under section 267.
- (2) The holder or former holder may enter the following land to carry out the decommissioning—
 - (a) land (the *primary land*) on which the decommissioning must be or was required to be carried out;
 - (b) any other land (the *access land*) it is reasonably necessary to cross for access to the primary land.

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- (3) Parts 7, 8 and 10 apply to the holder or former holder in the following way—
- (a) if the GHG permit has ended, as if—
 - (i) it were still in force; and
 - (ii) the former holder were still its holder;
 - (b) as if the primary land and access land is in the GHG permit's area;
 - (c) as if the decommissioning is an authorised activity for the GHG tenure.

Editor's note—

parts 7 (Private land), 8 (Public land) and 10 (General compensation provisions)

269 Responsibility for well after decommissioning

- (1) This section applies if the GHG tenure holder has decommissioned a well under section 267.

Note—

For ownership before decommissioning, see section 327 (Ownership of equipment and improvements).

- (2) Despite the decommissioning, the holder continues to be responsible under this Act for the well until the earlier of the following times (the *relevant time*)—
- (a) when the GHG tenure ends;
 - (b) when the land on which the well is located ceased to be in the GHG tenure's area.
- (3) At the relevant time the well is taken to have been transferred to the State.
- (4) Subsection (3) applies despite—
- (a) the well being on or part of land owned by someone else; or
 - (b) the sale or other disposal of the land.

Part 6 Security

270 Operation and purpose of pt 6

- (1) This part empowers the Minister to require, from time to time, the holder of a GHG authority or a person who has applied for a GHG authority to give the State security for the authority or proposed authority.
- (2) The security may be used to pay—
 - (a) any liability under this Act that the State incurs because of an act or omission of the holder; and
 - (b) any unpaid annual rent payable by the holder to the State; and
 - (c) other unpaid amounts payable under this Act by the holder to the State, including for example, any of the following payable by the holder to the State—
 - (i) unpaid civil penalty;
 - (ii) unpaid interest on unpaid annual rent;
 - (iii) any debt payable by the holder under section 371; and
 - (d) any compensation the State must pay under section 360 because of the exercise or purported exercise of a remedial power under section 356 for the GHG authority, whether or not the authority has ended.

271 Power to require security for GHG authority

- (1) The Minister may require the holder of a GHG authority or a person who has applied for a GHG authority to give the State security for the authority, or proposed authority.
- (2) The security must be—
 - (a) in the form prescribed under a regulation; and
 - (b) of at least the amount prescribed under a regulation.

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- (3) The requirement may be made at any time.
- (4) However, the requirement does not take effect until the holder or applicant is given—
 - (a) for a requirement to give security in the form and amount prescribed under subsection (2)—notice of the requirement; or
 - (b) otherwise—an information notice about the decision to make the requirement.

272 Minister's power to require additional security

- (1) The Minister may at any time require a GHG authority holder to increase the amount of security given for the authority.
- (2) However—
 - (a) if, because of an increase in the prescribed amount under section 271(2), the requirement is to increase the total security required to no more than the increased prescribed amount—the requirement must be made by notice to the holder; or
 - (b) if the requirement is to increase the total security required to more than the prescribed amount under section 271(2) when the requirement is made—
 - (i) subsections (3) to (6) must be complied with before making the requirement; and
 - (ii) the requirement does not take effect until the holder is given an information notice about the decision to make the requirement.
- (3) The Minister must give the holder notice—
 - (a) stating the proposed increased amount of the security for the GHG authority; and
 - (b) inviting the holder to within a stated reasonable period make submissions to the Minister about the proposed increased amount.

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- (4) The stated period must end at least 20 business days after the holder is given the notice.
 - (5) The Minister must consider any submissions made by the holder within the stated period.
 - (6) In this section—
security given includes security given or increased because of a requirement under subsection (1).

273 Interest on security

The State may keep any interest that accrues on security given under this part for a GHG authority.

274 Power to use security

The State may use security given under this part for a GHG authority and any interest that accrues on the security to make a payment mentioned in section 270(2) concerning the authority.

275 Replenishment of security

- (1) This section applies if—
 - (a) under section 274, all or part of the security for a GHG authority has been used; and
 - (b) the GHG authority is still in force.
- (2) The Minister must give the GHG authority holder a notice—
 - (a) stating how much of the security has been used; and
 - (b) directing the holder to within 30 days after the giving of the notice replenish the security for the GHG authority up to the higher of the following—
 - (i) the amount prescribed under a regulation;
 - (ii) if the notice states that under section 271, another amount is required—the other amount.

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276 Security not affected by change in authority holder

- (1) This section applies if security for a GHG authority has been given under this part for the authority and its holder changes.
- (2) Despite the change, the security and any interest that accrues on it continues in force for the benefit of the State and may be used under section 274.
- (3) If the security is in the form of money, until the security is replaced or refunded it continues in force for the holder from time to time of the GHG authority.

277 Retention of security after GHG authority ends

- (1) Security or part of security given for a GHG authority may be kept for 1 year after the authority has ended.
- (2) Also, if a claim made for the use of the security has not been assessed, an appropriate amount of the security to meet the claim may be kept until the claim has been assessed.

Part 7 Private land

Division 1 Preliminary

278 Application of pt 7

This part applies for a GHG authority in relation to all private land unless its holder owns the land.

Division 2 Requirement for entry notice for entry to private land in area of GHG authority

279 Requirement for entry notice to carry out authorised activities

- (1) A person must not enter private land to carry out an authorised activity for a GHG authority unless—
 - (a) the GHG authority holder has at least 10 business days before the entry given each owner and occupier of the land notice under this part (an *entry notice*) of the proposed entry; or
 - (b) the entry is needed to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
 - (c) each owner and occupier of the land has agreed that an entry notice is not required.

Maximum penalty—500 penalty units.

- (2) If a person proposes to enter the land under subsection (1)(b), the person must if practicable notify each owner and occupier of the land orally before entering the land.
- (3) An agreement under subsection (1)(c) is a *waiver of entry notice*.

280 Waiver of entry notice

- (1) A waiver of entry notice must—
 - (a) be signed; and
 - (b) state each of the following—
 - (i) that the owner or occupier has been told they are not required to agree to the waiver of entry notice;

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- (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out.
- (2) The owner or occupier can not withdraw the waiver of entry notice during the period.
- (3) The waiver of entry notice ceases to have effect at the end of the period.

281 Required contents of entry notice

- (1) An entry notice must state each of the following—
- (a) the land proposed to be entered;
 - (b) the period during which the land will be entered (the *entry period*);
 - (c) the activities proposed to be carried out on the land;
 - (d) when and where the activities are proposed to be carried out;
 - (e) contact details for—
 - (i) the relevant GHG authority holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- (2) The entry period must not be longer than—
- (a) for a GHG permit—6 months; or
 - (b) for another GHG authority—1 year.
- (3) However, for a GHG lease the entry period may be longer if the person to whom the notice is required to be given agrees in writing.
- (4) Subject to subsections (2) and (3), an entry notice given to 1 owner or occupier of the land may state a different entry

period from an entry notice given to another owner or occupier of the land.

- (5) If a proposed activity is not likely to significantly disrupt activities the occupier of the land ordinarily carries out on the land, the entry notice may comply with subsection (1)(c) and (d) by generally describing the nature and extent of the activity.
- (6) The entry notice must include or be accompanied by an information statement in the approved form about the rights and obligations of holders, owners and occupiers relating to the entry of land under a GHG authority.

282 Giving entry notice by publication

- (1) The chief executive may approve a GHG authority holder giving an entry notice by publishing it in a stated way.
- (2) The publication may relate to more than 1 entry notice.
- (3) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry at least 10 business days before the entry is to happen.
- (4) If the chief executive gives the approval, the entry notice may instead of complying with section 281(6) state where a copy of the information statement mentioned in that subsection may be obtained or inspected free of charge.

Division 3 Requirement for further notice before carrying out authorised activities on private land

283 Application of div 3

- (1) This division applies if a GHG authority holder proposes to—

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- (a) first enter private land to carry out authorised activities for the GHG authority; or
 - (b) allow someone else for the holder to first enter private land to carry out authorised activities for the GHG authority.
- (2) This division applies whether or not an entry notice has been given for the proposed entry.

284 Requirement to give further notice

- (1) The GHG authority holder must give each owner and occupier of the land notice—
- (a) of the proposed entry; and
 - (b) accurately of when and where the authorised activities are proposed to be carried out.
- (2) The notice must be given—
- (a) generally—at least 2 business days before the proposed entry; or
 - (b) if the holder and each owner and occupier of the land have agreed to a longer or shorter period for giving the notice—within the longer or shorter period.
- (3) The notice may be written or verbal and may be given in any way, including for example, in person, by email, facsimile transmission, letter or a hand written note.

285 Failure to give further notice

- (1) The GHG authority holder must comply with section 284.
Maximum penalty—50 penalty units.
- (2) However, a failure to comply with section 284 does not prevent the authorised activities from being carried out on the land.

Division 4 Access to private land outside area of GHG authority

Subdivision 1 Preliminary

286 Application of div 4

This division applies for a GHG authority in relation to all private land outside its area.

Subdivision 2 Access rights and access agreements

287 Access rights of GHG authority holder

- (1) Subject to section 288, the holder of a GHG authority has the following rights—
 - (a) to cross the land if it is reasonably necessary to allow the holder to enter the GHG authority's area;
 - (b) to carry out activities on the land that are reasonably necessary to allow the crossing of the land.

Examples for paragraph (b)—

- 1 constructing a road or track
 - 2 opening a gate or fence
- (2) The rights under subsection (1) that may under section 288, be exercised are the *access rights* for the GHG authority.
 - (3) Land to which the access rights apply is *access land* for the GHG authority.

288 Restriction on exercise of access rights

- (1) The access rights may be exercised only if—

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- (a) the exercise of the rights is needed to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
- (b) the following have agreed orally or in writing to the exercise of the rights—
 - (i) if exercising the rights is likely to have a permanent impact on the land—each owner and the occupier of the land;
 - (ii) if exercising the rights is unlikely to have a permanent impact on the land—each occupier of the land.

Note—

See also section 388 (Duty to avoid interference in carrying out authorised activities).

- (2) An agreement mentioned in subsection (1)(b) is an ***access agreement***.
- (3) In this section—

permanent impact, on the land, means a continuing effect on the land or its use or a permanent or long-term adverse effect on its current lawful use by an occupier of the land.

Example of an exercise of the rights that is likely to have a permanent impact—

building a road

Example of an exercise of the rights that is unlikely to have a permanent impact—

opening or closing a gate

289 Owner or occupier must not unreasonably refuse to make access agreement

- (1) An owner or occupier of the land must not if asked by a GHG authority holder unreasonably refuse to make an access agreement for the exercise of the access rights.

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- (2) For subsection (1), the owner or occupier does not unreasonably refuse only because the owner or occupier asks for agreement to be subject to reasonable and relevant conditions offered by the owner or occupier.
 - (3) If the holder asks the owner or occupier to make an access agreement and the owner or occupier has not within 20 business days made the agreement, the owner or occupier is taken to have refused to agree.

Note—

Either party may refer a refusal under subsection (1) or (3) to the Land Court to decide whether the refusal is unreasonable. See section 293.

290 Principles for deciding whether access is reasonable

- (1) This section provides for matters to which regard must be had in deciding whether—
 - (a) it is reasonably necessary for a GHG authority holder to cross the land to allow the holder to enter the GHG authority's area; or
 - (b) it is reasonably necessary for the holder to carry out activities on the land to allow the crossing of the land; or
 - (c) the owner or occupier has unreasonably refused to make an access agreement.
- (2) The holder must first show that it not possible or reasonable to exercise the access rights by using a formed road.
- (3) After subsection (2) has been satisfied, the Minister must consider the following—
 - (a) the nature and extent of any impact the exercise of the access rights will have on the land and the owner or occupier's use and enjoyment of it;
 - (b) how, when and where and the period during which the holder proposes to exercise the access rights.

[s 291]

291 Provisions for access and access agreements

- (1) Section 279 applies for any entry to the land by a GHG authority holder as if the entry were an entry to carry out authorised activities.
- (2) However—
 - (a) a written access agreement may include a waiver of entry notice for the entry; and
 - (b) if an access agreement provides for alternative provisions to section 279 for the entry—section 279 does not apply for so long as the alternative provisions are in force.
- (3) A written access agreement may include a compensation agreement for the exercise or future exercise of access rights by the holder.
- (4) This division does not limit or otherwise affect the ability of the owner or occupier to grant the holder a right of access to the land, including for example, by the grant of an easement.

292 Access agreement binds successors and assigns

Subject to section 294, an access agreement binds the parties to it and each of their personal representatives, successors in title and assigns.

Subdivision 3 Land Court resolution

293 Power of Land Court to decide access agreement

- (1) If a dispute arises between a GHG authority holder and an owner or occupier of the land (the *parties*) about a matter mentioned in section 290(1), any party to the dispute may apply to the Land Court for it to decide the matter.
- (2) In deciding the matter, the Land Court may impose conditions it considers appropriate for the exercise of the access rights.

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- (3) Conditions imposed under subsection (2) are taken to be—
- (a) if there is already an access agreement between the parties—conditions of that agreement; or
 - (b) if there is no access agreement between the parties—an access agreement between the parties.

294 Power of Land Court to vary access agreement

- (1) An owner or occupier of the land or a GHG authority holder may apply to the Land Court to vary any access agreement between them.
- (2) The Land Court may vary the access agreement only if it considers the change is appropriate because of a material change in circumstances.
- (3) Subsection (4) does not limit section 322.
- (4) This section does not prevent the owner or occupier and the holder from agreeing to vary the access agreement.

295 Criteria for deciding access

In deciding an application under this subdivision, the Land Court must have regard to section 290(2) and (3).

Division 5 Provisions for dealings or change in ownership or occupancy

296 Entry notice or waiver of entry notice or access agreement not affected by a dealing

A dealing with a GHG authority does not affect an entry notice or waiver of entry notice or an access agreement given or made for the authority.

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297 Change in ownership or occupancy

- (1) If after the giving of an entry notice, the ownership or occupancy of the relevant land changes—
 - (a) the holder of the GHG authority for which the entry notice was given is taken to have given that notice to each new owner or occupier of the land; and
 - (b) the requirement under section 279(1)(a) to give the notice at least 10 business days before entry does not apply for the new owner or occupier for the entry period stated in the notice.
- (2) If after the giving of a waiver of entry notice the ownership or occupancy of the relevant land changes, each new owner or occupier of the land is taken to have given that waiver of entry notice.
- (3) If the relevant GHG authority holder becomes aware of a new owner or occupier mentioned in subsection (1) or (2), the holder must within 15 business days give the new owner or occupier a copy of the entry notice or waiver of entry notice.
- (4) If the holder does not comply with subsection (3), subsections (1) and (2) cease to apply for the entry notice or consent.

Division 6 Periodic notice after entry of land

298 Notice to owners and occupiers

- (1) This section applies if—
 - (a) private land has been entered to carry out authorised activities for a GHG authority; or
 - (b) access land for a GHG authority has been entered in the exercise of the access rights over the land.
- (2) The holder of the GHG authority must within 3 months after the end of the period under subsection (3), (4) or (5) give each owner and occupier of the land a notice stating—

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- (a) what activities were carried out on the land during that period and where they were carried out; or
 - (b) if no activities were carried out on the land during the period—that no activities were carried out on the land during that period.
- (3) If an entry notice was given for the entry to all owners or occupiers of the land, the period for subsection (2) is the period stated in the entry notice.
- (4) If all owners or occupiers of the land gave a waiver of entry notice for the entry, the period for subsection (2) is the longer of following periods after the giving of the waiver of entry notice—
- (a) either—
 - (i) for a GHG permit—6 months; or
 - (ii) for another GHG authority—1 year;
 - (b) if within the period under paragraph (a), each owner or occupier of the land consented to a longer period—the longer period.
- (5) If an entry notice for the entry was given to some of the owners or occupiers and the rest of the owners or occupiers gave a waiver of entry notice for the entry, the period for subsection (2) is the longer of the periods under subsections (3) and (4).

Division 7 Access to carry out rehabilitation and environmental management

299 Right of access for authorised activities includes access for rehabilitation and environmental management

- (1) This section applies if under this part, a GHG authority holder has the right to enter private land to carry out authorised activities for the authority.

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- (2) The right includes the right to enter the land to carry out rehabilitation or environmental management required of the holder under any relevant environmental requirement under the Environmental Protection Act.

Part 8 Public land

Division 1 Public roads

Subdivision 1 Preliminary

300 Significant projects excluded from div 1

- (1) This division does not apply for a GHG authority for a significant project.
- (2) Subsection (1) does not limit or otherwise affect conditions the Coordinator-General may under the *State Development and Public Works Organisation Act 1971*, part 4, recommend for the GHG authority.

301 What is a *notifiable road use*

- (1) A *notifiable road use*, for a GHG authority, is—
 - (a) the use of a public road in the GHG authority's area for transport relating to a seismic survey or drilling activity; or
 - (b) the use of a public road at more than the threshold rate if the haulage relates to—
 - (i) the transportation of GHG streams; or
 - (ii) the construction of a pipeline.

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- (2) Subsection (1)(b) applies even if the road is not on land in the GHG authority's area.
- (3) In this section—
- threshold rate* means—
- (a) for a State-controlled road—50000t a year; or
 - (b) for another public road—10000t a year.

Subdivision 2 Notifiable road uses

302 Notice of notifiable road use

- (1) It is a condition of each GHG authority that its holder must not use a public road for a notifiable road use unless the holder has given the public road authority for the road notice that the holder proposes to carry out the use.

Note—

See also section 310 (Compensation to be addressed before carrying out notifiable road use).

- (2) The notice must—
- (a) be given—
 - (i) at least 10 business days before the use starts; or
 - (ii) within a shorter period agreed to by the public road authority in writing; and
 - (b) state each of the following—
 - (i) the public road proposed to be used;
 - (ii) the type of haulage under the use;
Examples of type of haulage—
 - vehicle type
 - material hauled
 - (iii) the total weight of material proposed to be hauled;

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- (iv) when the use is proposed to start and end;
- (v) the frequency of vehicle movements;
- (vi) contact details for the holder or someone else the holder has authorised to discuss the matters stated in the notice.

303 Directions about notifiable road use

- (1) The public road authority for a public road may, by notice, give a GHG authority holder a direction (a *road use direction*) about the way the holder may use the road for notifiable road uses being carried out, or proposed to be carried out, by the holder.
- (2) The direction must—
 - (a) be reasonable; and
 - (b) only be about—
 - (i) preserving the condition of the road; or
 - (ii) the safety of roadusers or the public; and
 - (c) be accompanied by or include an information notice about the decision to give the direction.

Examples of what a direction may be about—

- when the road may be used
 - the route for the movement of heavy vehicles
 - safety precautions the holder must take
- (3) The direction may also require the holder to—
 - (a) carry out an assessment of the impacts likely to arise from the notifiable road use the subject of the notice; and
 - (b) consult with the public road authority in carrying out the assessment.
 - (4) However—

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- (a) an assessment can not be required if the notifiable road use is transport relating to a seismic survey or drilling activity; and
 - (b) the public road authority can not require an assessment of an impact to the extent it has already been assessed under an EIS under the Environmental Protection Act or a similar document under another Act.

304 Obligation to comply with road use directions

It is a condition of each GHG authority that its holder must comply with any road use direction given to its holder relating to the authority unless the holder has a reasonable excuse.

Subdivision 3 Compensation for notifiable road uses

305 Liability to compensate public road authority

- (1) The holder of each GHG authority is liable to compensate the public road authority for a public road for any cost, damage or loss it incurs or will incur that is or will be caused by notifiable road uses carried out by the holder that relate to the road.

Examples of a possible cost for subsection (1)—

- repair costs to rectify damage to the road caused or that will be caused by any of the uses
 - capital costs for unplanned upgrades of the road incurred or that will be incurred because of any of the uses
 - bring-forward costs, including interest charges, for a planned upgrade of the road that because of any of the uses is or will be required earlier than planned
- (2) The holder's liability under subsection (1) is the holder's ***compensation liability*** to the public road authority.
 - (3) The compensation liability—

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- (a) applies whether or not the holder has, under section 302, given notice of the use; and
- (b) is subject to section 311; and
- (c) is in addition to and does not limit or otherwise affect the holder's liability under another provision of this Act about compensating the public road authority or anyone else.

306 Compensation agreement

- (1) A GHG authority holder and the public road authority for a public road may enter into an agreement (a ***compensation agreement***) about the holder's compensation liability to the public road authority relating to the road.
- (2) A compensation agreement may relate to all or part of the liability.
- (3) A compensation agreement must—
 - (a) be signed by or for the holder and the public road authority; and
 - (b) state whether it is for all or part of the liability; and
 - (c) if it is for only part of the liability, state—
 - (i) each part of the notifiable road use to which the agreement relates; and
 - (ii) the period for which the agreement has effect; and
 - (d) provide for how and when the liability will be met.
- (4) A compensation agreement may—
 - (a) extend the holder's compensation liability to the public road authority relating to the road to any renewal of the GHG authority; and
 - (b) provide for—
 - (i) monetary or non-monetary compensation; or
 - (ii) a process by which it may be amended or enforced.

Example for paragraph (b)—

A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the GHG authority including a significant decrease or increase in the extent of the relevant notifiable road use.

- (5) Subsections (2) to (4) do not limit the matters that may be provided for in a compensation agreement.

307 Deciding compensation through Land Court

- (1) The public road authority for a public road or a GHG authority holder may apply to the Land Court for it to decide the holder's compensation liability to the public road authority relating to the road.
- (2) The Land Court may decide the compensation liability only to the extent it is not subject to a compensation agreement.
- (3) In making the decision, the Land Court may have regard to whether the applicant has attempted to mediate or negotiate the compensation liability.

308 Criteria for decision

- (1) The criteria the Land Court must consider in deciding a compensation application include—
 - (a) the reasonableness of the cost, damage or loss claimed; and
 - (b) if the public road authority is a local government—the extent to which the cost, damage or loss claimed has been, will be or ought reasonably to be or to have been paid from—
 - (i) amounts the GHG authority holder has paid or agreed to pay the public road authority for notifiable road uses; or

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- (ii) rates and charges under the *Local Government Act 1993* paid or payable by the GHG authority holder to the public road authority; and
 - (c) any other relevant matter.
- (2) In considering the reasonableness of any cost, damage or loss claimed, the Land Court must have regard to—
 - (a) any action taken or proposed by the GHG authority holder to, or to attempt to, avoid, minimise or remedy the cost, damage or loss; and
 - (b) any relevant act or omission of the public road authority.
- (3) Subsection (1)(b)(ii) applies whether or not the rates and charges relate to notifiable road uses.

309 Land Court review of compensation

- (1) This section applies if—
 - (a) the compensation liability or future compensation liability of a GHG authority holder to a public road authority has been agreed to under a compensation agreement or decided by the Land Court (the *original compensation*); and
 - (b) there has since the agreement or decision been a material change in circumstances.

Example of a material change in circumstances—

a significant decrease or increase in the extent of the relevant notifiable road use

- (2) The public road authority or GHG authority holder may apply to the Land Court for it to review the original compensation.
- (3) Sections 307 and 308 apply for the review as if the application were a compensation application.
- (4) The Land Court may after carrying out the review decide to confirm the original compensation or amend it in a way the Land Court considers appropriate.

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- (5) However, before making the decision, the Land Court must have regard to—
- (a) the original compensation; and
 - (b) whether the applicant has attempted to mediate or negotiate an amendment of the original compensation; and
 - (c) any change in the matters mentioned in section 308(1) since the original compensation was agreed or decided.
- (6) If the decision is to amend the original compensation, the original compensation as amended under the decision is for this Act taken to be the original compensation.

310 Compensation to be addressed before carrying out notifiable road use

- (1) It is a condition of each GHG authority that its holder must not carry out a notifiable road use on a public road unless—
- (a) the holder and the relevant public road authority have signed a compensation agreement for the use; or
 - (b) the public road authority has given written consent to the carrying out of the use; or
 - (c) a compensation application has been made to decide the holder's compensation liability to the public road authority relating to the road.
- (2) A consent under subsection (1)(b) may be given for any renewal of the GHG authority.

311 Compensation not affected by change in administration or holder

- (1) An agreement or decision under this part about compensation liability is binding on—
- (a) the relevant public road authority; and
 - (b) the relevant GHG authority holder; and

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- (c) each of their personal representatives, successors and assigns.
- (2) Subsection (1) is subject to section 309.

Division 2 Other public land

312 Requirement for entry notice to carry out authorised activities

- (1) This section does not apply for a notifiable road use.

Note—

For notifiable road uses see sections 302 (Notice of notifiable road use) and 303 (Directions about notifiable road use).

- (2) A person must not enter public land to carry out an authorised activity for a GHG authority on public land unless—
 - (a) the activity is an activity that may be carried out by a member of the public without requiring the specific approval of the public land authority for the land; or

Example—

travelling on a public road in the GHG authority's area

- (b) the holder has at least 30 business days before the entry given the public land authority notice under this part (an ***entry notice***) of the proposed entry; or
- (c) the entry is needed to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
- (d) the public land authority has agreed that an entry notice is not required.

Maximum penalty—100 penalty units.

- (3) An agreement under subsection (2)(d) is a ***waiver of entry notice***.

313 Waiver of entry notice

- (1) A waiver of entry notice must—
 - (a) be signed; and
 - (b) state each of the following—
 - (i) that the public land authority has been told it is not required to agree to the waiver of entry notice;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out.
- (2) The public land authority can not withdraw the waiver of entry notice during the period.
- (3) The waiver of entry notice ceases to have effect at the end of the period.

314 Required contents of entry notice

- (1) An entry notice must state each of the following—
 - (a) the land proposed to be entered;
 - (b) the period during which the land will be entered (the *entry period*);
 - (c) the activities proposed to be carried out on the land;
 - (d) when and where the activities are proposed to be carried out;
 - (e) contact details for—
 - (i) the relevant GHG authority holder; or
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.
- (2) The entry period must not be longer than—

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- (a) for a GHG permit—6 months; or
 - (b) for another GHG authority—1 year.
- (3) However, for a GHG lease the entry period may be longer if the public land authority agrees in writing.
- (4) Subject to subsections (2) and (3), an entry notice given to 1 public land authority for the public land may state a different entry period from an entry notice given to another public land authority for the public land.
- (5) If a proposed activity is not likely to significantly disrupt activities the public land authority ordinarily carries out on the land, the entry notice may comply with subsection (1)(c) and (d) by generally describing the nature and extent of the activity.

315 Conditions public land authority may impose

- (1) A public land authority may impose relevant and reasonable conditions on a GHG authority holder, including for example, about giving the public land authority—
- (a) notice of proposed entry—
 - (i) generally—at least 2 business days before the proposed entry; or
 - (ii) if the holder and the public land authority have agreed to a longer or shorter period for giving the notice—within the longer or shorter period; or
 - (b) notice at stated intervals of activities carried out by, or for, the holder on the land.
- (2) However, the public land authority can not impose a condition that is the same or substantially the same as or inconsistent with a condition of the GHG authority or a relevant environmental authority.
- (3) Despite subsection (2), if the public land authority is the chief executive of the department in which the *Nature Conservation Act 1992* is administered, that chief executive may impose a

condition more stringent than the conditions of the environmental authority.

- (4) If the public land authority decides to impose a condition other than a condition agreed to or requested by the holder, it must give the holder an information notice about the decision.
- (5) In carrying out the activity, the holder must comply with the conditions.

Maximum penalty for subsection (5)—100 penalty units.

Part 9 **Access to land in area of particular other authorities**

316 **Application of pt 9**

- (1) This part applies for a GHG authority (the *first authority*) for land outside its area and in the area of any of the following (the *second authority*)—
 - (a) another GHG authority;
 - (b) a petroleum tenure;
 - (c) a petroleum authority;
 - (d) a mining tenement;
 - (e) a geothermal exploration permit.
- (2) However, if the land is also private land or public land, this part does not limit part 7 or 8.

317 **Access to land in area of mining lease or petroleum lease**

If the second authority is a mining lease or a petroleum lease, the first authority holder may enter the land only if—

- (a) the second authority holder has consented in writing to the entry; and

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- (b) the first authority holder has given the chief executive a notice stating that the consent has been given.

318 Access to land in area of another type of authority

- (1) If the second authority is not a mining lease or a petroleum lease, the first authority holder may do the following without the second authority holder's consent—
 - (a) cross the land if it is reasonably necessary to allow the first authority holder to enter the first authority's area;
 - (b) carry out activities on the land that are reasonably necessary to allow the crossing of the land.
- (2) However, a right under subsection (1) may be exercised only if its exercise does not adversely affect the carrying out of an authorised activity for the second authority.
- (3) Subsection (2) applies whether or not the authorised activity has already started.

Part 10 General compensation provisions

319 General liability to compensate

- (1) This section does not apply for a public land authority in relation to a notifiable road use.
- (2) The holder of each GHG authority is liable to compensate each owner or occupier of private or public land that is in the area of, or is access land for, the GHG authority (an *eligible claimant*) for—
 - (a) any compensatable effect the eligible claimant suffers that are caused by—

- (i) authorised activities for the GHG authority carried out by or for its holder; and
 - (ii) the carrying out of an activity by a person authorised by the holder if the holder has represented that the activity is an authorised activity for the GHG authority; and
- (b) consequential damages the eligible claimant incurs because of a compensatable effect caused by authorised activities for the GHG authority.
- (3) A GHG authority holder's liability under subsection (2) to an eligible claimant is the holder's *compensation liability* to the claimant.
- (4) This section is subject to section 325.
- (5) In this section—

compensatable effect means all or any of the following relating to the eligible claimant's land—

 - (a) deprivation of possession of its surface;
 - (b) diminution of its value;
 - (c) diminution of the use made or that may be made of the land or any improvement on it;
 - (d) severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
 - (e) any cost or loss arising from the carrying out of activities under the GHG authority on the land.

320 Compensation agreement

- (1) An eligible claimant and a GHG authority holder may enter into an agreement (a *compensation agreement*) about the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.

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- (2) A compensation agreement may relate to all or part of the liability or future liability.
- (3) A compensation agreement must—
 - (a) be written and signed by or for the holder and the eligible claimant; and
 - (b) state whether it is for all or part of the liability; and
 - (c) if it is for only part of the liability, state—
 - (i) details of each activity or effects of the activity to which the agreement relates; and
 - (ii) the period for which the agreement has effect; and
 - (d) provide for how and when the liability will be met.
- (4) A compensation agreement may—
 - (a) extend the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant to any renewal of the GHG authority; and
 - (b) provide for—
 - (i) monetary or non-monetary compensation; or
 - (ii) a process by which it may be amended or enforced; and

Examples—

- 1 A compensation agreement may provide for the construction of a road for the claimant.
 - 2 A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the GHG authority including a change in the extent of activities required under a later development plan for a GHG lease.
- (c) provide for any compensation that is or may be payable from the holder to the eligible claimant, under the Environmental Protection Act.

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- (5) This section does not limit the matters that may be provided for in a compensation agreement.

321 Deciding compensation through Land Court

- (1) An eligible claimant or a GHG authority holder may apply to the Land Court for it to decide the holder's—
- (a) compensation liability to the claimant; or
 - (b) future compensation liability to the claimant for an authorised activity for the GHG authority proposed to be carried out by or for the holder.
- (2) However, the Land Court may decide the liability or future liability only to the extent it is not subject to a compensation agreement.
- (3) In hearing the application, the Land Court must as much as practicable ensure the hearing happens together with or as closely as possible to the hearing of any application to it for compensation that is or may be payable from the holder to the eligible claimant, under the Environmental Protection Act.

322 Land Court review of compensation

- (1) This section applies if—
- (a) the compensation liability or future compensation liability of a GHG authority holder to an eligible claimant has been agreed to under a compensation agreement or decided by the Land Court (the *original compensation*); and
 - (b) there has since the agreement or decision been a material change in circumstances (the *change*).
- (2) The eligible claimant or the holder may apply to the Land Court for it to review the original compensation.
- (3) In carrying out the review, the Land Court may review the original compensation only to the extent it is affected by the change.

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- (4) If the Land Court considers the original compensation is not affected by the change, it must not carry out or continue with the review.
- (5) The Land Court may after carrying out the review decide to confirm the original compensation or amend it in a way the Land Court considers appropriate.
- (6) If the decision is to amend the compensation, the original compensation as amended under the decision is for this Act taken to be the original compensation.

323 Orders Land Court may make

- (1) The Land Court may make any order it considers appropriate to meet or enforce its decision on an application under this part.
- (2) Without limiting subsection (1), the Land Court may order non-monetary compensation as well as monetary compensation.

324 Compensation to be addressed before entry to private land

- (1) This section applies to the holder of any GHG authority.
- (2) The holder must not enter private land to carry out an authorised activity for the GHG authority unless—
 - (a) the holder owns the land; or
 - (b) the holder has the right other than under this Act to enter the land to carry out authorised activities for the GHG authority; or
 - (c) each eligible claimant for the land is—
 - (i) a party to a compensation agreement about the holder's compensation liability to the eligible claimant of at least to the extent the liability relates to the activity proposed to be carried out by the holder and its effects; or

-
- (ii) a party to an agreement (a *deferral agreement*) that a compensation agreement can be entered into after the entry; or
 - (iii) an applicant or respondent to an application under section 321 relating to the land; or
 - (d) the entry is to preserve life or property or because of a dangerous situation or emergency that exists or may exist.
- (3) A deferral agreement must—
- (a) be written and signed by or for the holder and each eligible claimant for the land; and
 - (b) state each of the following—
 - (i) that the eligible claimant has been told the claimant is not required to sign the agreement before a compensation agreement has been entered into;
 - (ii) the authorised activities proposed to be carried out on the land;
 - (iii) the period during which the land will be entered;
 - (iv) when and where the activities are proposed to be carried out;
 - (v) when it is proposed that all or part of the liability for compensation will be met;
 - (vi) the period for which the agreement has effect;
 - (vii) how the liability will be met.

325 Compensation not affected by change in ownership or occupancy

- (1) A compensation agreement or a Land Court decision under this part is for the benefit of and is taken to have been agreed to or decided for and is binding on—
- (a) the relevant eligible claimant; and

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- (b) the GHG authority holder; and
 - (c) each of their successors and assigns including successors and assigns for the area of the relevant GHG authority.
- (2) Subsection (1) is subject to section 322.

Part 11 Ownership of equipment and improvements

326 Application of pt 11

- (1) This part applies if—
- (a) equipment or improvements are taken, constructed or placed on land in the area of a GHG authority; and
 - (b) the equipment or improvements were taken, constructed or placed on the land for use for an authorised activity for the GHG authority; and
 - (c) the GHG authority continues in force.
- (2) However, this part—
- (a) does not apply for a GHG stream pipeline; and
 - (b) is subject to part 15.

Notes—

- 1 For pipelines, see sections 250 (General provision about ownership while tenure or licence is in force for pipeline) and 252 (Obligation to decommission pipelines on cessation or reduction of tenure).
 - 2 Part 15 (Enforcement of end of authority and area reduction obligations).
- (3) In this section—

equipment includes machinery and plant.

improvements—

- (a) does not include a GHG well; but
- (b) does include any works constructed in connection with a GHG well

327 Ownership of equipment and improvements

- (1) While the equipment or improvements are on the land they remain the property of the person who owned them immediately before they were taken, constructed or placed on the land, unless that person otherwise agrees.

Note—

See however section 334 (Obligation to remove equipment and improvements).

- (2) However, for a GHG well subsection (1) is subject to part 5, division 2.

Editor's note—

Part 5, division 2 (Decommissioning of wells)

- (3) Subsection (1) applies despite—
- (a) the plant or equipment having become part of the land; or
 - (b) the sale or other disposal of the land.
- (4) The equipment or improvements can not be—
- (a) levied or seized in execution; or
 - (b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder or the owner of the land.
- (5) This section applies despite—
- (a) an Act or law of a State; or
 - (b) a contract, covenant or claim of right under a law of a State.

Part 12 **General provisions for conditions and authorised activities**

Division 1 **Other mandatory conditions for all GHG authorities**

328 **Operation of div 1**

This division provides for general mandatory conditions for all GHG authorities.

Notes—

- 1 The following provisions also impose mandatory conditions on all GHG authorities—
 - chapter 2, parts 1 and 5
 - chapter 3, parts 1 and 6
 - chapter 4
 - parts 7 and 8 of this chapter.
- 2 For what is a mandatory condition, see section 20(2).

329 **Obligation to prevent spread of declared pests**

- (1) The holder of a GHG authority must take reasonable steps to ensure the holder and anyone else acting for the holder does not disperse the reproductive material of any declared pest when—
 - (a) entering or leaving land in the GHG authority's area; or
 - (b) carrying out an authorised activity for the GHG authority.
- (2) However, subsection (1) does not apply if the dispersal is authorised under the *Land Protection (Pest and Stock Route Management) Act 2002*.
- (3) In this section—

declared pest means any of the following—

- (a) a declared pest animal or declared pest plant under the *Land Protection (Pest and Stock Route Management) Act 2002*;
- (b) an animal or plant declared under a relevant local law to be—
 - (i) a declared pest animal or declared pest plant; or
 - (ii) the equivalent (however called) of a declared pest animal or declared pest plant for the local law.

relevant local law means a local law of a local government the area of which includes the place at which the dispersal takes place.

reproductive material, of an animal or plant, means any part of the animal or plant that is capable of asexual or sexual reproduction.

Examples of reproductive material of an animal—

egg or part of an egg, semen

Examples of reproductive material of a plant—

- 1 seed or part of a seed
- 2 bulb or part of a bulb, rhizome, stolon or tuber
- 3 stem or leaf cutting

330 Requirement to consider using formed roads

- (1) This section applies if under this Act, the holder of a GHG authority proposes to enter any land.
- (2) The holder must consider using any formed road that is available for the entry if using the road is practicable.
- (3) If the holder decides not to use the formed road, the holder must take reasonable steps to consult with the owner of the land before entering the land.
- (4) A failure to comply with this section does not invalidate or otherwise affect the entry.

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331 Obligation to comply with Act and prescribed standards

- (1) The holder of a GHG authority must—
 - (a) comply with this Act; and
 - (b) in carrying out an authorised activity for the GHG authority, comply with—
 - (i) any standard that the GHG authority provides for the activity; and
 - (ii) to the extent that the GHG authority does not provide a standard for the activity—any standard prescribed under a regulation for carrying out the activity.
- (2) In this section—

standard includes an Australian Standard, an international standard or a code or protocol.

332 Obligation to survey if Minister requires

- (1) The Minister may by notice to the holder of a GHG authority require the holder to survey or re-survey its area within a stated reasonable period.
- (2) The holder must cause the survey or re-survey to be carried out by a person registered as a cadastral surveyor under the *Surveyors Act 2003*.
- (3) The holder must pay any costs incurred in complying with the notice.

333 Notice of petroleum discovery

- (1) This section applies if because of the carrying out an authorised activity for a GHG authority, its holder discovers petroleum.
- (2) The holder must within 3 business days give the chief executive a notice about the discovery.

- (3) The notice must give details of the discovery and any other information prescribed under a regulation.

Note—

If the holder is also a petroleum tenure holder, see also the P&G Act, section 544 (Notice by petroleum tenure holder about discovery and commercial viability).

Division 2 General provisions for when authority ends or area reduced

334 Obligation to remove equipment and improvements

- (1) This section applies for equipment or improvements in the area of a GHG authority or on access land for the authority that are being, or have been, used for an authorised activity for the authority.
- (2) However, this section does not apply for—
- (a) a GHG well or a pipeline; or

Notes—

- 1 For GHG wells, see part 5, division 2 (Decommissioning of wells)
- 2 For pipelines, see section 252 (Obligation to decommission pipelines on cessation or reduction of tenure).

- (b) equipment or improvements on land that under section 48, ceases to be in the area of a GHG permit.
- (3) The holder of the GHG authority must before the removal day remove the equipment or improvements from the land unless the owner of the land otherwise agrees.

Maximum penalty—1000 penalty units.

- (4) To remove any doubt, it is declared that subsection (3) applies even if the equipment or improvements are not owned by the holder.
- (5) In this section—

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equipment includes machinery and plant.

removal day means the latest of the following days—

- (a) the earlier of the following—
 - (i) the day the GHG authority ends;
 - (ii) the day the land ceases to be in the GHG authority's area;
- (b) if before the day provided for under paragraph (a), the Minister fixes a day—that day;
- (c) if before a day fixed under paragraph (b), the Minister fixes a later day—that day.

335 Authorisation to enter to facilitate compliance

- (1) The Minister may by notice authorise a former holder of a GHG authority to enter any of the following land to comply with, or remedy a contravention of, section 329 or this division—
 - (a) the land to which section 329 or this division applies (*primary land*);
 - (b) any other land (*secondary land*) necessary or desirable to cross for access to the primary land.
- (2) Parts 7 (other than division 4), 8 and 10 and sections 20 and 331 apply to the former holder for of the authorisation as if—
 - (a) the GHG authority were still in force (the *notional authority*); and
 - (b) the former holder is the holder of the notional authority; and
 - (c) the primary land and any secondary land are in the notional authority's area; and
 - (d) the compliance or the remedying of the contravention were authorised activities for the notional authority.

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- (3) However, the power under this section does not include the power to enter a structure or a part of a structure used for residential purposes without the consent of the occupier of the structure or part of the structure.
 - (4) If the former holder intends to enter the land and any occupier of the land is present at the land, the former holder also must show or make a reasonable attempt to show the occupier the former holder's authorisation under this section.

Division 3 Provisions for authorised activities

336 Authorised activities may be carried out despite rights of owner or occupier

- (1) The authorised activities for a GHG authority may be carried out despite the rights of an owner or occupier of land on which the activities are carried out.
- (2) However, subsection (1) applies for an authorised activity only if section 337 does not prevent it from being carried out.

337 General restrictions on right to carry out authorised activity

- (1) The right under this Act to carry out of an authorised activity for a GHG authority is subject to—
 - (a) chapter 4 and this chapter; and
 - (b) compliance with its holder's rights and obligations under—
 - (i) chapters 2 to 4; and
 - (ii) this chapter; and
 - (iii) sections 387 and 388; and

[s 338]

Editor's note—

sections 387 (GHG tenure holder's measurement obligations) and 388 (Duty to avoid interference in carrying out GHG storage activities)

- (c) the mandatory conditions and the other conditions and provisions of the GHG authority; and
 - (d) any exclusion or restriction provided for in the GHG authority on the carrying out of the activities; and
 - (e) the P&G Act safety provisions; and
 - (f) the Environmental Protection Act; and
 - (g) any other relevant Act or law.
- (2) Also, the right may be exercised only by the holder or someone that the holder has authorised under section 338.

338 Who may carry out authorised activity for GHG authority holder

- (1) An authorised activity for a GHG authority may be carried out for the holder by any of the following persons acting within the scope of the person's authority from the holder—
- (a) if the holder is a corporation—its officers and employees;
 - (b) the holder's employees or partners who are individuals;
 - (c) agents of or contractors for the holder;
 - (d) officers and employees of or agents of or contractors for agents or contractors mentioned in paragraph (c).

Example—

A GHG lease holder may also enter into a GHG coordination arrangement under which another party to the arrangement may carry out an authorised activity for the GHG lease. See section 186(1).

- (2) The authority may be express, or implied from—
- (a) the nature of the relationship between the person and the holder; or

- (b) the duties the person performs for the holder; or
- (c) the duties a person mentioned in subsection (1) customarily performs.

Part 13 **GHG register**

339 **GHG register**

- (1) The chief executive must keep a register of details about—
 - (a) GHG authorities; and
 - (b) GHG coordination arrangements; and
 - (c) dealings with GHG authorities.
- (2) The chief executive may also keep in the register information that the chief executive considers appropriate about matters relating to this Act or another Act.

340 **Keeping of register**

- (1) The chief executive must include in the GHG register the information prescribed under a regulation.
- (2) If under this Act, there is a change relating to information required to be kept in the register or to information that under section 339(2) the chief executive keeps in the register, the chief executive must—
 - (a) amend the register to reflect the change; and
 - (b) record in the register—
 - (i) when the information was amended; and
 - (ii) for a dealing—when it took effect under section 348(2).

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- (3) For subsection (2), if the change requires approval under this Act, the change happens when the approval takes effect.

341 Access to register

- (1) The chief executive must—
 - (a) keep the GHG register open for inspection by the public during office hours on business days at the places the chief executive considers appropriate; and
 - (b) allow a person on payment of the fee prescribed under a regulation to search and take extracts from the register; and
 - (c) give a person who asks for a copy of all or part of a notice, a document or information held in the register the copy on payment of the fee prescribed under a regulation.
- (2) This section is subject to section 342.

342 Arrangements with other departments for copies from GHG register

- (1) Despite section 341, the chief executive may enter into an arrangement with another department allowing it to carry out a search of, take extracts from or obtain a copy of particulars recorded in the GHG register without payment of the fees prescribed under section 341.
- (2) However, the chief executive may enter into an arrangement under subsection (1) only if the chief executive is reasonably satisfied the information obtained from the copy will not be—
 - (a) used for a commercial purpose, including for example, the marketing or sale of the information or other information; or
 - (b) included in another database of information in any form other than with chief executive's approval.

343 Supply of statistical data from GHG register

- (1) The chief executive may enter into an agreement to supply statistical data derived from instruments or information kept in the GHG register.
- (2) If the chief executive supplies statistical data under subsection (1)—
 - (a) the fees and charges applying for the supply of the data are the fees and charges provided for in the agreement; and
 - (b) without limiting paragraph (a), the agreement may also state—
 - (i) how the fees and charges are to be calculated; and
 - (ii) how payment of the fees and charges is to be made.
- (3) Without limiting subsection (1), an agreement for the supply of statistical data may limit the use to which the data supplied may be put.
- (4) An agreement for the supply of statistical data must include—
 - (a) a provision allowing the chief executive to exclude particulars from data supplied under the agreement if the chief executive is satisfied on reasonable grounds that inclusion of the particulars may result in the particulars being inappropriately disclosed or used; and
 - (b) a provision allowing the chief executive to prohibit disclosure or to limit distribution or use of data supplied under the agreement.
- (5) An agreement under this section must not provide for the obtaining of information or anything else that may be obtained under section 341.
- (6) The chief executive must exclude GHG authority particulars and personal information from data supplied under the agreement.
- (7) Subsection (6) applies despite anything in the agreement.

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(8) In this section—

GHG authority particulars means particulars from any instrument or information kept by the chief executive that may allow a person to identify a GHG authority to which the instrument or information relates.

personal information means a particular from any instrument or information kept by the chief executive that may allow a person to identify a person to whom the instrument or information relates.

344 Chief executive may correct register

- (1) The chief executive may correct the GHG register if satisfied—
 - (a) the register is incorrect; and
 - (b) the correction will not prejudice the rights recorded in the register of a GHG authority holder, a person who holds an interest in a GHG authority or a person who is a party to a GHG coordination arrangement.
- (2) The power to correct includes power to correct information in the register or a document forming part of the register.
- (3) If the register is corrected, the chief executive must record in it—
 - (a) the state of the register before the correction; and
 - (b) the time, date and circumstances of the correction.
- (4) A correction under this section has the same effect as if the relevant error had not been made.
- (5) For subsection (1)(b), a right is not prejudiced if the relevant person acquired or has dealt with the right with actual or constructive knowledge that the register was incorrect and how it was incorrect.

Part 14 Dealings

Division 1 Preliminary

345 What is a *dealing* with a GHG authority

- (1) Each of the following is a *dealing* with a GHG authority—
 - (a) a transfer of a GHG authority or of a share in a GHG authority;
 - (b) a mortgage of a GHG authority or a share in a GHG authority;
 - (c) a release, transfer or surrender of a mortgage mentioned in paragraph (b);
 - (d) a sublease or a share in a sublease of a GHG lease;
 - (e) a transfer of a sublease mentioned in paragraph (d);
 - (f) a change to a GHG authority holder's name even if the holder continues to be same person after the change.
- (2) However, a *dealing* with a GHG authority does not include a prohibited dealing mentioned in section 346(1).
- (3) In this section—

transfer includes—

 - (a) a transmission by death; and
 - (b) a transfer by operation of law.

Example for paragraph (b)—

A GHG authority is held by individuals as joint tenants and one of them dies. A transfer of the authority includes a record of the death to record the passing by survivorship of the deceased holder's share of the authority to the other holders.

346 Prohibited dealings

- (1) The following are prohibited—
- (a) a transfer of a pipeline constructed or operated under section 31 or 111;
 - (b) a dealing that has the effect of transferring a divided part of the area of a GHG tenure;
Examples of a divided part of the area of a GHG tenure—
 - a specific part of the surface of the area
 - a specific strata beneath the surface of the area
 - (c) a transfer of a GHG data acquisition authority or of a share in a data acquisition authority other than a transfer by operation of law under section 240.
- (2) A dealing or transfer prohibited under subsection (1) is of no effect.

347 What is a *third party transfer*

A *third party transfer*, of a GHG authority, is a dealing that is a transfer of a GHG authority or of a share in a GHG authority other than—

- (a) a transfer under which—
 - (i) the proposed transferee is someone who holds the same Australian Business Number to any proposed transferor; or
 - (ii) all of one holder's share in the GHG authority will be transferred to another holder of the GHG authority; or
- (b) a transmission by death; or
- (c) a transfer by operation of law.

Division 2 Registration of dealings generally

348 Registration required for all dealings

- (1) A dealing with a GHG authority has no effect until it has been registered.
- (2) A registered dealing takes effect on—
 - (a) for a third party transfer—the day the transfer was concluded; or
 - (b) otherwise—the day the dealing was given to the chief executive for registration.

349 Approval requirement for third party transfer

A third party transfer can not be registered unless an application has been made under division 3 for approval of the transfer and the approval has been given.

350 Obtaining registration other than third party transfer

- (1) Registration of a dealing other than a third party transfer may be sought only by giving the chief executive a notice of the dealing in the approved form.
- (2) The form must be accompanied by the fee prescribed under a regulation.

351 Effect of approval and registration

The registration of a dealing or the giving of an approval under division 3 for a dealing does not of itself give the dealing any more effect or validity than it would have had, had section 348 not been enacted.

Division 3 Approval and registration of third party transfers

352 Applying for approval

- (1) Any party to a third party transfer may apply for approval and registration of the transfer.
- (2) However, an application can not be made under subsection (1) if the proposed transferee is not an eligible person.
- (3) The application must be—
 - (a) made to the Minister in the approved form; and
 - (b) accompanied by—
 - (i) if the GHG authority or interest is subject to a mortgage—the mortgagee’s consent; and
 - (ii) the fee prescribed under a regulation.

353 Deciding application

- (1) The Minister must decide whether or not to give the approval.
- (2) The approval may be given only if—
 - (a) the proposed transferee is a holder of the relevant environmental authority; and
 - (b) either—
 - (i) any financial assurance required under the Environmental Protection Act for the environmental authority has been given; or
 - (ii) the administering authority under that Act has given the Minister notice that it has not required financial assurance under that Act from the proposed transferee for the environmental authority.

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- (3) If the application relates to a transfer of a GHG tenure the Minister must consider the relevant criteria under chapter 2 or 3 for obtaining that type of GHG tenure.

354 Security may be required

- (1) The Minister may as a condition of deciding to give the approval require the proposed transferee to give under section 271, security for the GHG authority as if the proposed transferee were an applicant for the authority.
- (2) If the proposed transferee does not comply with the requirement, the approval may be refused.

355 Information notice about refusal

If the Minister decides not to give the approval, the Minister must give the applicant an information notice about the decision.

Part 15 Enforcement of end of authority and area reduction obligations

356 Power of authorised person to ensure compliance

- (1) This section applies if the holder, or former holder, of a GHG authority has not complied with section 267, 252 or 334 in relation to land (the *primary land*).

Editor's note—

section 252 (Obligation to decommission pipelines on cessation or reduction of tenure), 267 (Obligation to decommission) or 334 (Obligation to remove equipment and improvements)

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- (2) A person authorised (the *authorised person*) by the chief executive may by complying with section 357 exercise the following powers (*remedial powers*)—
 - (a) enter the primary land and do all things necessary to ensure the requirement is complied with;
 - (b) enter any other land (*secondary land*) necessary or desirable to cross for access to the primary land.
- (3) However, remedial powers do not include power to enter a structure or a part of a structure used for residential purposes without the consent of the occupier of the structure or part of the structure.
- (4) The authorisation—
 - (a) must be written; and
 - (b) may be given on conditions the Minister considers appropriate.

357 Requirements for entry to ensure compliance

- (1) Remedial powers may be exercised for the primary or secondary land under section 356 only if a following person is given notice of the proposed entry at least 10 business days before the proposed entry—
 - (a) if the land has an occupier—any occupier of the land;
 - (b) if the land does not have an occupier—its owner.
- (2) The notice must—
 - (a) identify the authorised person; and
 - (b) describe the land; and
 - (c) state—
 - (i) that the authorised person has under this section, been authorised to enter the land; and
 - (ii) the purpose of the entry; and
 - (iii) the period of the entry.

- (3) The chief executive may approve the giving of the notice by publishing it in a stated way.
- (4) The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry.
- (5) If the authorised person intends to enter the land and any occupier of the land is present at the land, the person also must show or make a reasonable attempt to show the occupier the person's authorisation under this section.

358 Duty to avoid damage in exercising remedial powers

In exercising remedial powers, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

359 Notice of damage because of exercise of remedial powers

- (1) If a person exercising remedial powers damages land or something on it, the person must give the owner and any occupier of the land notice of the damage.
- (2) If for any reason it is not practicable to comply with subsection (1), the person must—
 - (a) leave the notice at the place where the damage happened; and
 - (b) ensure it is left in a conspicuous place and in a reasonably secure way.
- (3) The notice must state—
 - (a) particulars of the damage; and
 - (b) that the owner or occupier may claim compensation under section 360 from the State.

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360 Compensation for exercise of remedial powers

- (1) This section applies if an owner or occupier of land (the *claimant*) suffers a cost, damage or loss because of the exercise or purported exercise of remedial powers.
- (2) Compensation is payable to the claimant by the State for the cost, damage or loss.
- (3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.
- (4) The court may order the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.

361 Ownership of thing removed in exercise of remedial powers

- (1) This section applies if—
 - (a) remedial powers are exercised for land; and
 - (b) in the exercise of the powers a thing is removed from the land; and
 - (c) immediately before the removal, the thing was the property of—
 - (i) the holder or former holder of a GHG authority about whom the powers were exercised; or
 - (ii) an agent of or contractor for the holder.
- (2) On the removal, the thing becomes the property of the State.
- (3) The State may deal with the thing as it considers appropriate, including for example, by destroying it or giving it away.
- (4) The chief executive may deal with the thing for the State.
- (5) If the State sells the thing, the State may after deducting the costs of the sale return the net proceeds of the sale to the former owner of the thing.

362 Recovery of costs of and compensation for exercise of remedial power

- (1) The State may recover from the responsible person as a debt any—
 - (a) reasonable costs the State or an authorised person under section 356 incurs in exercising a remedial power; and
 - (b) compensation payable by the State under section 360 for the exercise of the remedial power.
- (2) However, in any proceeding to recover the costs, any relevant net proceeds of sale mentioned in section 361 must be deducted from the amount claimed for the costs.
- (3) In this section—

relevant net proceeds of sale means proceeds of sale under which the thing sold was the property of the responsible person immediately before its removal under section 361.

responsible person means the holder or former holder of the GHG authority about whom the remedial powers were exercised.

Part 16 Dealing with serious situations

363 What is a serious situation

A *serious situation* exists for a GHG storage reservoir if—

- (a) a GHG stream injected into the reservoir has leaked; or
- (b) there is a significant risk that a GHG stream injected into the reservoir will leak from it; or
- (c) a GHG stream injected, being injected or to be injected into the reservoir has behaved or is behaving otherwise than as predicted in a relevant work program or development plan.

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364 Minister's power to give direction

- (1) This section applies if the Minister reasonably believes—
 - (a) a serious situation exists or may exist for a GHG storage reservoir and
 - (b) a GHG tenure holder is in a position to take steps to remedy the situation or possible situation.
- (2) The Minister may give the GHG tenure holder a direction (a *serious situation direction*) to—
 - (a) stop injecting any GHG stream into the reservoir; or
 - (b) suspend the injection of any GHG stream into the reservoir for a stated period; or
 - (c) take steps reasonably necessary to remedy the situation within a stated reasonable period.
- (3) If the direction requires the GHG tenure holder to take action mentioned in subsection (2)(c) within a stated period, it may state the steps the Minister reasonably believes are necessary to remedy the serious situation within the period.
- (4) The direction may also require the GHG tenure holder to notify the Minister when the holder has complied with the direction.

365 Requirements for giving serious situation direction

- (1) A serious situation direction must state—
 - (a) that the Minister believes—
 - (i) a stated serious situation exists; and
 - (ii) the GHG tenure holder given the direction is in a position to take steps to remedy the situation; and
 - (b) the reasons for the belief; and
 - (c) the requirements under the direction.

- (2) The direction must include or be accompanied by an information notice about the decisions to give the direction and to fix the period.
- (3) The direction may be given orally if—
 - (a) for any reason it is not practicable to give the direction in writing; and
 - (b) the Minister warns the person it is an offence not to comply with the direction.
- (4) If a serious situation direction is given orally, the Minister must confirm the direction by also giving it in writing as soon as practicable after giving it orally.

366 Failure to comply with serious situation direction

- (1) A GHG tenure holder to whom a serious situation direction has been given must comply with the direction.
Maximum penalty—1000 penalty units.
- (2) Subsections (3) and (4) apply if—
 - (a) the direction requires the GHG tenure holder to take steps reasonably necessary to remedy the serious situation the subject of the direction within a stated reasonable period; and
 - (b) the direction states the steps the Minister reasonably believes are necessary to remedy the serious situation within the period.
- (3) The GHG tenure holder is taken to have complied with the requirement if all of the stated steps are taken within the period.
- (4) Subsection (3) does not prevent the GHG tenure holder from complying with the requirement in another way.

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367 Serious situation direction applies despite other instruments

A serious situation direction applies despite any GHG tenure, work program, development plan or other instrument made or given under this Act.

368 Powers under P&G Act not affected

To remove any doubt, it is declared that this part does not limit—

- (a) the power to give a compliance direction or a dangerous situation direction under the P&G Act; or
- (b) another power under the P&G Act safety provisions or chapter 10 of that Act.

Part 17 Miscellaneous provisions

369 GHG authority does not create an interest in land

The granting of a GHG authority does not create an interest in any land.

370 Joint holders of a GHG authority

- (1) A GHG authority may be held by 2 or more persons as joint tenants or as tenants in common.
- (2) If under this Act—
 - (a) an application is made for, or for approval to transfer, a GHG authority for more than 1 proposed holder or transferee; and
 - (b) the application does not show whether the proposed holders or transferees are to hold as joint tenants or as tenants in common; and

(c) the application is granted;
the chief executive must record in the GHG register that the applicants hold the GHG authority as tenants in common.

(3) In this section—

GHG authority includes a share in a GHG authority.

371 Minister's power to ensure compliance by GHG authority holder

(1) This section applies if—

- (a) the holder of a GHG authority has not complied with a requirement under this Act, of the holder; and
- (b) no other provision of this Act allows someone other than the holder to ensure compliance with the requirement.

(2) The Minister may take any action the Minister considers appropriate to ensure all or part of the requirement is complied with if—

- (a) subsections (3) and (4) have been complied with; or
- (b) the holder has agreed to the Minister taking the action.

(3) The Minister must give the holder notice—

- (a) stating the requirement and the action the Minister proposes to take; and
- (b) inviting the holder to within a stated reasonable period make submissions to the Minister about the proposed action.

(4) The Minister must consider any submissions made by the holder within the stated period.

(5) A decision to take the action does not take effect until the holder is given an information notice about the decision.

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- (6) The State may recover from the holder as a debt any reasonable costs it incurs in the exercise of the power under subsection (2).

372 Interest on amounts owing to the State

- (1) Interest is payable to the State on any amount owing under this Act by anyone to the State and unpaid from time to time after the relevant day.

Examples of an amount that may be owing under this Act—

annual or other rent and a civil penalty for nonpayment of annual rent

- (2) The interest accrues daily at the rate prescribed under a regulation on the unpaid amount for the period starting on the day immediately after the amount became payable and ending on the day the amount owing on which interest is payable is paid in full, both days inclusive.
- (3) Any amount received in payment of the unpaid amount or the interest must first be applied in payment of the interest.
- (4) Subsection (3) applies despite any order or direction of the payer.
- (5) In this section—
relevant day means the following—
- (a) for an amount for annual or other rent or a civil penalty for nonpayment of annual rent—the day that is 3 months after the last day for payment of the rent or civil penalty;
 - (b) for another amount—the day the amount becomes owing.

373 Recovery of unpaid amounts

- (1) If a provision of this Act requires a GHG authority holder to pay the State an amount (including interest) the State may recover the amount from the holder as a debt.
- (2) In this section—

holder includes a former holder of the GHG authority about whom the remedial powers were exercised.

374 Power to correct or amend authority

- (1) The Minister may amend a GHG authority at any time by giving its holder a notice of the amendment and recording particulars in the relevant register if the amendment—
 - (a) is to correct a clerical error; or
 - (b) is to state or more accurately state the boundaries of the area of the GHG authority because of a survey carried out under section 332.
- (2) The Minister may at any time amend a condition of the GHG authority if its holder authority agrees in writing.
- (3) Despite subsections (1) and (2), the following can not be amended under this section—
 - (a) the mandatory conditions for that type of authority;
 - (b) the term of the GHG authority;
 - (c) any work program or development plan for the GHG authority.
- (4) Also, the Minister can not amend the GHG authority if the authority as amended would be inconsistent with a mandatory condition for that type of authority.

375 Replacement of instrument for GHG authority

- (1) If the instrument for a GHG authority has been lost, stolen or destroyed, its holder may apply to replace it.
- (2) The application must be made to the Minister in the approved form.
- (3) If the Minister is reasonably satisfied the instrument has been lost, stolen or destroyed, the Minister must replace it.

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- (4) If the Minister decides to refuse to replace the instrument, the Minister must give the holder an information notice about the decision.

376 Joint and several liability for conditions and for debts to State

If more than 1 person holds a GHG authority each holder is jointly and severally—

- (a) responsible for complying with its conditions; and
- (b) liable for all debts payable under this Act and unpaid by the GHG authority holder to the State.

377 Notice of authority holder's agents

A person carrying out functions under this Act may refuse to deal with a person who claims to be acting as the agent of the holder of a GHG authority unless the holder has given the person notice of the agency.

Chapter 6 Enforcement, offences and proceedings

Part 1 Noncompliance action for GHG authorities

Division 1 Preliminary

378 Operation of div 1

- (1) This division provides a process for noncompliance action against the holder of a GHG authority.
- (2) The power to take noncompliance action under this part does not limit a power as follows (the *other power*)—
 - (a) the power under chapter 5, part 6 to require new or additional security;
 - (b) a power under another provision of this Act to amend the GHG authority;
 - (c) the power to give a dangerous situation or compliance direction under the P&G Act.
- (3) The other power does not limit the power to take noncompliance action.
- (4) Noncompliance action may be taken when the other power is exercised.

Notes—

- 1 The P&G Act, chapter 10 includes provisions about investigating GHG storage activities and for the giving of compliance and dangerous situation directions concerning those activities.
- 2 See also chapter 5, part 16 (Dealing with serious situations).

Division 2 Noncompliance action by Minister

379 Types of noncompliance action that may be taken

- (1) The noncompliance action the Minister may take under this division is all or any of the following—
- (a) amending the GHG authority by doing all or any of the following—
 - (i) for a GHG authority other than a GHG lease, reducing its term;
 - (ii) reducing its area;
Example of a possible reduction—

A GHG permit holder has not in contravention of section 89, carried out work required under the work program for the permit. Noncompliance action may include amending the permit to reduce its area to reflect the work not carried out.
 - (iii) amending a condition of the GHG authority;
 - (iv) imposing a new condition;
 - (b) for a GHG authority other than a GHG lease, requiring its holder to relinquish a stated part of its area on or before a stated time;
 - (c) cancelling the GHG authority, immediately or on a stated day;
 - (d) if the GHG authority is a GHG tenure—
 - (i) withdrawing from a stated day, the approval of its work program or development plan; and
 - (ii) directing its holder to, on or before that day, give the Minister the following document so that the Minister may decide whether to approve it—
 - (A) for a GHG permit—a proposed later work program that complies with the later work program requirements;

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- (B) for a GHG lease—a proposed later development plan that complies with the later development plan requirements;
- (e) requiring the GHG authority holder to pay the State a penalty of an amount no more than the monetary value of 2000 penalty units.
- (2) However, a requirement under subsection (1)(e) may be made only if the holder has agreed to the requirement being made instead of the taking other noncompliance action under subsection (1).
- (3) A condition or amendment under subsection (1) may restrict the authorised activities for the GHG authority.
- (4) If under subsection (1)(c), the GHG authority is cancelled on a stated day, a condition may be imposed under subsection (1)(a) restricting the authorised activities for the authority until the cancellation.
- (5) Noncompliance action may be taken despite the mandatory conditions for the GHG authority.

380 When noncompliance action may be taken

- (1) Noncompliance action may be taken if—
- (a) an event mentioned in subsection (2) or (3) has happened; and
- (b) the procedure under division 3 or 4 for taking the action has been followed; and
- (c) the GHG authority for which the noncompliance action is taken relates to the event for which the action is taken.
- (2) For subsection (1), the event is that the holder—
- (a) obtained the GHG authority because of a materially false or misleading representation or declaration made orally or in writing; or
- (b) has failed to comply with this Act, a direction given under this Act or the GHG authority; or

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- (c) did not pay an amount under this Act by the day it became owing; or
 - (d) has used any land in the GHG authority's area for an activity that—
 - (i) is not an authorised activity for the GHG authority or that, under any of the following Acts can not be carried out on the land—
 - (A) the Geothermal Act, chapter 4, part 5;
 - (B) the Mineral Resources Act, part 7AAC;
 - (C) the P&G Act, chapter 3A;
 - (D) the 1923 Act, part 6FA; and
 - (ii) the holder can not otherwise lawfully carry out; or
 - (e) has used the GHG authority for a purpose other than for a purpose for which it was granted; or
 - (f) has carried out or purported to carry out work under the GHG authority for which the GHG authority was not granted.
- (3) Also, it is an event for subsection (1) if the holder is not or has ceased to be an eligible person.

Division 3 Procedure for noncompliance action

381 Notice of proposed noncompliance action other than immediate suspension

- (1) The Minister must give the GHG authority holder a notice stating each of the following—
 - (a) that the Minister proposes to take noncompliance action against the holder;
 - (b) the types of noncompliance action that may be taken against the holder and the type likely to be taken;

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- (c) the grounds for taking noncompliance action against the holder;
 - (d) the facts and circumstances that are the basis for the grounds;
 - (e) that the holder may within a stated period make submissions to the Minister about the proposal to take noncompliance action.
- (2) The notice may state any of the following—
 - (a) if the noncompliance action is likely to include amending the GHG authority—the likely amendment;
 - (b) the amount of any likely reduction of the GHG authority’s area;
 - (c) if the proposed noncompliance action is to suspend the GHG authority—the likely suspension period.
 - (3) A suspension period may be fixed by reference to a stated event.
 - (4) The stated period must be at least 20 business days after the holder is given the notice.

382 Considering submissions

- (1) The Minister must consider any submissions made by the holder within the period stated in the notice given under section 381.
- (2) If the Minister decides not to take noncompliance action the Minister must, as soon as practicable, give the holder a notice of the decision.

383 Decision on proposed noncompliance action

- (1) If after complying with section 382, the Minister still believes a ground exists to take noncompliance action, the Minister may decide to take noncompliance action for the GHG

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authority relating to a ground stated in the notice given under section 381.

- (2) The Minister must in deciding whether to take the action have regard to whether the holder is a suitable person to hold or continue to hold the GHG authority.
- (3) In considering whether the holder is a suitable person to hold or to continue to hold the GHG authority the Minister must consider any criteria for deciding whether to grant an GHG authority of the same type.

384 Notice and taking effect of decision

- (1) If the Minister makes a decision under section 383, the person must after making the decision give an information notice about the decision to—
 - (a) the holder; and
 - (b) any other person who holds an interest in the GHG authority recorded in the GHG register.
- (2) Generally, the decision takes effect on the later of the following—
 - (a) the day the holder is given the information notice;
 - (b) a later day of effect stated in the notice.
- (3) However, if the decision was to cancel or suspend the GHG authority, the decision does not take effect until the end of the appeal period for the decision.

385 Consequence of failure to comply with relinquishment requirement

- (1) This section applies if—
 - (a) noncompliance action taken is a requirement under section 379(1)(b), of a GHG authority holder; and
 - (b) the requirement is not complied with.

- (2) The Minister must give the holder a notice requiring the holder to comply with the requirement under section 379(1)(b) within 20 business days after the giving of the notice.
- (3) If the holder does not comply with the requirement under the notice, the GHG authority is cancelled.
- (4) However, the cancellation does not take effect until the Minister gives the holder a notice stating that the GHG authority has been cancelled because of the operation of subsection (3).

Part 2 General offences

Division 1 Restrictions relating to GHG storage activities

386 Restriction on GHG storage activities

- (1) A person must not carry out a GHG storage activity in relation to land unless—
 - (a) the activity is carried out under a GHG authority or a serious situation direction; or
 - (b) the carrying out of the activity is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
 - (c) the activity is the construction or operation of a GHG stream pipeline carried out under a pipeline licence; or
 - (d) the person—
 - (i) is carrying out the activity for the State; and
 - (ii) has, under section 420, been authorised for that purpose; and

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(iii) is acting within the scope of that authority.

Maximum penalty—2000 penalty units.

- (2) If the activity is injecting a GHG stream into an underground reservoir, it is a defence to a proceeding for an offence against subsection (1) for the defendant to prove that the injection—
- (a) was for the purpose of enhanced petroleum recovery; and
 - (b) was authorised under the 1923 Act or the P&G Act.

387 GHG tenure holder's measurement obligations

The holder of a GHG tenure must ensure—

- (a) GHG streams used for GHG stream storage in the GHG tenure's area are measured by a meter; and
- (b) the meter complies with any requirements prescribed under a regulation; and
- (c) the measurement is made at the times and in the way prescribed under a regulation.

Maximum penalty—500 penalty units.

388 Duty to avoid interference in carrying out GHG storage activities

A person who carries out an authorised activity for a GHG authority must carry out the activity in a way that does not unreasonably interfere with anyone else carrying out a lawful activity.

Maximum penalty—500 penalty units.

Division 2 Interference with authorised activities

389 Obstruction of GHG authority holder

- (1) A person must not without reasonable excuse obstruct a GHG authority holder from—
 - (a) entering or crossing land to carry out an authorised activity for the GHG authority if chapter 5, part 7 or 8 to the extent the part is relevant, has been complied with for the entry; or
 - (b) carrying out an authorised activity for the GHG authority on the land.

Maximum penalty—500 penalty units.

- (2) If a person has obstructed a GHG authority holder from carrying out an activity mentioned in subsection (1) and the holder decides to proceed with the carrying out of the activity, the holder must warn the person that—
 - (a) it is an offence to obstruct the holder unless the person has a reasonable excuse; and
 - (b) the holder considers the person's conduct is an obstruction.

- (3) In this section—

obstruct includes assault, hinder, resist and attempt or threaten to assault, hinder, resist.

390 Restriction on building on pipeline land for GHG tenure

- (1) This section applies if land is pipeline land for 1 or more GHG tenures.

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- (2) A person other than a holder of any of the GHG tenures must not construct or place a structure on the land unless all the GHG tenure holders consent.

Maximum penalty—500 penalty units.

391 Restriction on changing surface of pipeline land for a GHG tenure

A person must not change the surface of pipeline land for a GHG tenure in a way that changes or may cause a change to the depth of burial of a pipeline unless—

- (a) the GHG tenure holder consents; or
- (b) the change is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or
- (c) the change is a change to a public road by or for its public road authority; or
- (d) the person has a reasonable excuse.

Maximum penalty—500 penalty units.

Division 3 Other offences

392 False or misleading information

- (1) A person must not make an entry in a document required to be kept under this Act knowing the entry is false or misleading in a material particular.

Maximum penalty—500 penalty units.

- (2) A person of whom a direction or requirement under this Act has been made must not state anything or give a document or thing in response to the direction or requirement that the person knows is false or misleading in a material particular.

Maximum penalty—500 penalty units.

393 Executive officers must ensure corporation does not commit particular offences

- (1) The executive officers of a corporation must ensure the corporation complies with each designated provision of this Act.
- (2) If a corporation commits an offence against a designated provision of this Act, each of its executive officers also commits an offence namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a designated provision of this Act is evidence that each of its executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove that—
 - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the designated provision; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

- (5) In this section—

designated provision, of this Act, means any of the following provisions—

- sections 176 to 178, 244, 264, 267, 285, 315, 334 and 366
- chapter 5, part 4
- this part, other than this section.

394 Attempts to commit offences

- (1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty for an attempt—half the maximum penalty for the completed offence.

- (2) The Criminal Code, section 4 applies to subsection (1).

Part 3 Appeals

395 Who may appeal

- (1) A person whose interests are affected by a decision of the Minister identified in schedule 1 may appeal against the decision to the Land Court.
- (2) For this section, a person who has been given or is entitled to be given an information notice about a decision is taken to be a person whose interests are affected by the decision.

396 Period to appeal

- (1) The appeal must be started within 20 business days after—
 - (a) for an appeal from a review decision—
 - (i) if the person has been given a review notice about the review decision to which the appeal relates—the day the person is given the notice; or
 - (ii) if subparagraph (i) does not apply—the day the person otherwise becomes aware of the review decision; or
 - (b) for an appeal from another decision—

- (i) if the person has been given an information notice about the decision—the day the person is given the notice; or
 - (ii) if subparagraph (i) does not apply—the day the person otherwise becomes aware of the decision.
- (2) However, the Land Court may at any time within the 20 business days extend the period for making an appeal.

397 Starting appeal

- (1) The appeal is started by filing a written notice of appeal with the Land Court.
- (2) The appellant must give the chief executive a copy of the notice.

398 Stay of operation of decision

- (1) The Land Court may grant a stay of the decision to secure the effectiveness of the appeal.
- (2) A stay—
 - (a) may be given on the conditions the Land Court considers appropriate; and
 - (b) operates for the period fixed by the Land Court; and
 - (c) may be amended or cancelled by the Land Court.
- (3) The period of a stay under this section must not extend past the time when the Land Court decides the appeal.
- (4) The appeal affects the decision or carrying out of the decision only if it is stayed.

399 Hearing procedures

- (1) In deciding an appeal, the Land Court—
 - (a) has the same powers as the Minister; and

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- (b) is not bound by the rules of evidence; and
 - (c) must comply with natural justice; and
 - (d) may hear the appeal in court or in chambers.
- (2) An appeal is by way of rehearing unaffected by the decision.
- (3) Subject to subsections (1) and (2), the procedure for the appeal is—
- (a) in accordance with the rules for the Land Court; or
 - (b) in the absence of relevant rules, as directed by the Land Court.
- (4) A power under an Act to make rules for the Land Court includes power to make rules for appeals under this part.

400 Land Court's powers on appeal

- (1) Subject to section 401, in deciding an appeal the Land Court may—
- (a) confirm the decision; or
 - (b) set aside the decision and substitute another decision; or
 - (c) set aside the decision and return the issue to the Minister with the directions the Land Court considers appropriate.
- (2) If the Land Court substitutes another decision, the substituted decision is for this Act other than this part taken to be the decision of the Minister.

401 Restriction on Land Court's powers for decision not to grant GHG lease

- (1) This section applies if the Land Court is deciding an appeal against a decision not to grant a GHG lease.
- (2) The Land Court can not exercise a power mentioned in section 400(1)(b) or (c) in relation to the decision on the ground that any resource management decision for the application for the

GHG lease was to give overlapping authority priority, in whole or part.

402 Appeals from Land Court's decision

An appeal to the Court of Appeal from a decision of the Land Court under this part may be made only on a question of law.

Part 4 Evidence and legal proceedings

Division 1 Evidentiary provisions

403 Application of div 1

This division applies to a proceeding under or in relation to this Act.

404 Authority

The power of the Minister or chief executive to do anything under this Act must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it.

405 Signatures

A signature purporting to be the signature of the Minister or the chief executive is evidence of the signature it purports to be.

406 Other evidentiary aids

A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the

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matter—

- (a) that a stated document of any of the following types is a document given, issued, kept or made under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a direction, notice or requirement;
 - (iii) a GHG authority;
 - (iv) the GHG register;
 - (v) a report;
 - (vi) another record;
- (b) that a stated document is another document kept under this Act;
- (c) that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
- (d) that on a stated day—
 - (i) a stated person was given a stated decision, direction or notice under this Act; or
 - (ii) a stated requirement under this Act was made of a stated person;
- (e) that on a stated day or during a stated period a GHG authority—
 - (i) was or was not in force; or
 - (ii) was or was not subject to a stated condition; or
 - (iii) was or was not cancelled or suspended;
- (f) that a stated amount is payable under this Act by a stated person and has not been paid;
- (g) that a stated address for the holder of a GHG authority is the last address of the holder known to the Minister or the chief executive.

Division 2 Offence proceedings

407 Offences under Act are summary

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence against this Act must start within the later of the following periods to end—
 - (a) 1 year after the commission of the offence;
 - (b) 6 months after the offence comes to the complainant's knowledge but within 2 years after the commission of the offence.

408 Statement of complainant's knowledge

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

409 Conduct of representatives

- (1) This section applies to a proceeding for an offence against this Act if it is relevant to prove a person's state of mind about particular conduct.
- (2) It is enough to show—
 - (a) the conduct was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (3) Conduct engaged in for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person unless the person proves—

[s 410]

- (a) if the person was in a position to influence the representative in relation to the conduct—the person took reasonable steps to prevent the conduct; or
 - (b) the person was not in a position to influence the representative in relation to the conduct.
- (4) In this section—
- engaging* in conduct includes failing to engage in conduct.
- representative* means—
- (a) for a corporation—an agent, employee or executive officer of the corporation; or
 - (b) for an individual—an agent or employee of the individual.
- state of mind*, of a person, includes the person's—
- (a) belief, intention, knowledge, opinion or purpose; and
 - (b) reasons for the belief, intention, opinion or purpose.

410 Additional orders that may be made on conviction

- (1) If a court convicts a person for an offence against this Act, it may—
 - (a) order the forfeiture to the State of—
 - (i) anything used to commit the offence; or
 - (ii) anything else the subject of the offence; and
 - (b) make any order to enforce the forfeiture it considers appropriate; and
 - (c) order the person to pay the State the amount of costs it incurred for remedial work that was necessary or desirable because of the commission of the offence.
- (2) Forfeiture of a thing may be ordered—
 - (a) whether or not it has been seized under this Act; and

- (b) if it has been seized under this Act, whether or not it has been returned to its owner.

Chapter 7 Miscellaneous provisions

Part 1 Applications, lodging documents and making submissions

411 Place for making applications, lodging documents or making submissions

- (1) This section applies to any of the following under this Act—
- (a) the making of an application;
 - (b) the giving of a document to the Minister or the chief executive;
 - (c) the making of a submission.
- (2) The application, document or submission may be made or given only at the following place—
- (a) the office of the department provided for under the relevant approved form for that purpose;
 - (b) if the relevant approved form does not make provision as mentioned in paragraph (a) or if there is no relevant approved form—the office of the department notified on the department’s website.

412 Substantial compliance with application requirements may be accepted

If—

[s 413]

- (a) a person has made or purported to make an application under this Act; and
- (b) the requirements under this Act for making the application have not been complied with; and
- (c) the Minister is satisfied the application substantially complies with the requirements;

the person who must decide the application may decide to allow it to proceed and be decided as if it did comply with the requirements.

413 Additional information may be required about application

- (1) If the Minister is deciding or is required to decide an application under this Act, the Minister may by notice require the applicant to give the Minister within a stated reasonable period—

- (a) additional information about, or a document relevant to, the application; or

Example—

The application is for a GHG tenure. The Minister may require a document, prepared by an appropriately qualified person, independently verifying geological or predictive migration data given in the proposed work program or development plan for the GHG tenure.

- (b) an independent report by an appropriately qualified person or a statutory declaration by verifying all or any of the following—
 - (i) any information included in the application;
 - (ii) any additional information required under paragraph (a);
 - (iii) if the application is for a GHG tenure—that the applicant meets the relevant capability criteria under chapter 2 or 3.

- (2) For subsection (1)(a), if the application is for a GHG authority, a required document may include a survey or

re-survey of the area of the proposed authority carried out by a cadastral surveyor under the *Surveyors Act 2003*.

- (3) For subsection (1)(b), the notice may require—
 - (a) the statutory declaration to be made by an appropriately qualified independent person or by the applicant; and
 - (b) if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant.
- (4) If the applicant does not comply with the requirement, the Minister may refuse the application.
- (5) The applicant must pay any costs incurred in complying with the notice.

414 Particular criteria generally not exhaustive

- (1) This section applies if another provision of this Act permits or requires the Minister to consider particular criteria in deciding an application.
- (2) To remove any doubt, it is declared that the Minister may in making the decision consider any other criteria the Minister considers relevant.
- (3) However, subsection (2) does not apply if the provision otherwise provides.
- (4) In this section—
criteria includes issues and matters.

415 Particular grounds for refusal generally not exhaustive

- (1) This section applies if another provision of this Act provides for particular grounds on which the Minister may refuse an application.
- (2) To remove any doubt, unless the other provision otherwise provides, the person may refuse the application on another reasonable and relevant ground.

[s 416]

- (3) In this section—
refuse, an application, includes to refuse the thing the subject of the application.

416 Amending applications

- (1) If a person has made an application under this Act, the person may amend the application or a document accompanying the application only if—
- (a) the application has not been decided; and
 - (b) the Minister has agreed to the making of the amendment; and
 - (c) if the proposed amendment is to change the applicant—each applicant and proposed applicant has agreed to the change.
- (2) However, if the application is a tender for a GHG tenure—
- (a) a proposed work program or development plan included in the tender can not be amended after the applicant has become the preferred tenderer for the tender; and
 - (b) the tender can not be otherwise amended after the closing time for the relevant call for tenders.
- (3) However, subsection (2)(b) does not apply if—
- (a) the tenderer is a corporation; and
 - (b) the change is only a change of name of the tenderer; and
 - (c) the tenderer's Australian company number and Australian registered business name have not changed.
- (4) If under subsection (1), the application is amended to change the applicant, for the deciding of the application the applicant as changed is taken to have been the applicant from the making of the application.

417 Withdrawal of application

- (1) A person who has made an application under this Act may give the chief executive a notice withdrawing the application at any time before any decision about the application takes effect.
- (2) The withdrawal takes effect when the notice is given.
- (3) If the applicant is a preferred tenderer for a call for tenders, the withdrawal does not affect the Minister's power to appoint another tenderer from the tenders made in response to the call to be the preferred tenderer.

418 Minister's power to refund application fee

If an application under this Act is withdrawn, the Minister may refund all or part of any fee paid for the application.

Part 2 Other miscellaneous provisions

419 General public interest criteria for ministerial decisions

- (1) The Minister must consider the public interest in making a decision under this Act about an application or the granting of an approval by the Minister.
- (2) If—
 - (a) another provision of this Act permits or requires the Minister to make a decision; and
 - (b) the other provision does not require the Minister to consider the public interest;

the Minister may nonetheless consider the public interest in making the decision.

[s 420]

420 Provision for entry by State to carry out authority-related activity

- (1) If the State proposes to exercise a right under section 28(3)(b)(i), the right may be exercised by anyone authorised by the chief executive.
- (2) However, a person authorised under subsection (1) may enter the land only if the person has given the owner of the land at least 5 business days notice of the proposed entry.
- (3) To remove any doubt, it is declared that subsection (2) does not apply to an inspector or authorised officer under the P&G Act performing functions under that Act relating to this Act.

421 Name and address for service

- (1) A person (the *first person*) may by a signed notice given to the chief executive nominate another person (a *nominated person*) at a stated address as the first person's address for service for this Act.
- (2) If this Act requires or permits the Minister or chief executive to serve a notice or other document on the first person, it may be served on the first person by serving it on the last nominated person at the stated address for that person.
- (3) In this section—
serve includes give.

422 Additional information about reports and other matters

- (1) This section applies if—
 - (a) a person is required under this Act to give a notice or copy of a document, report or information (the *advice*) with the Minister or the chief executive; and
 - (b) the person gives the advice.
- (2) The the Minister or chief executive may by notice require the person to give within the reasonable time stated in the notice

written information about the matter for which the advice was given.

- (3) The person must comply with the notice.

Maximum penalty for subsection (3)—500 penalty units.

423 References to right to enter

A right under this Act to enter a place includes the right to—

- (a) leave and re-enter the place from time to time; and
- (b) remain on the place for the time necessary to achieve the purpose of the entry; and
- (c) take on the place equipment, materials, vehicles or other things reasonably necessary to exercise a power under this Act.

424 Application of provisions

If a provision of this Act applies any of the following (the *applied law*) for a purpose—

- (a) another provision of this Act;
- (b) another law;
- (c) a provision of another law;

for that purpose the applied law and any definition relevant to it apply with necessary changes.

425 Protection from liability for particular persons

- (1) A person as follows (a *designated person*) does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act—

- (a) the Minister;
- (b) a public service officer or public service employee;
- (c) a person if—

[s 426]

- (i) the person has, under section 420, been authorised to carry out an activity for the State; and
 - (ii) the act or omission happened while the person was acting within the scope of that authority;
- (d) a GHG tenure holder given a serious situation direction who is complying with the direction.
- (2) For subsection (1)(b), it does not matter what is the form of appointment or employment of the person.
- (3) If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.
- (4) In this section—
civil liability includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

426 Delegation by Minister or chief executive

- (1) The Minister may delegate the Minister's functions under this Act to an appropriately qualified public service officer or employee.
- (2) The chief executive may delegate the chief executive's functions under this Act to an appropriately qualified public service officer or employee.
- (3) In this section—
functions includes powers.

427 Ministerial directions about the giving of information

- (1) The Minister may in the way the Minister considers appropriate publish directions about the giving of information, including the giving of additional information to the Minister or the chief executive for the purposes of this Act.

-
- (2) A direction published under subsection (1) must state a period that is at least 20 business days within which the information must be given.
- (3) Without limiting subsection (1), the directions may provide for how the information must be given if this Act does not already so provide.

Examples of how information may be required to be given—

- by an approved form or a notice
- by progressive reporting under a work program or development plan
- by a volumetric plan of survey
- by a geological survey
- by a statement supporting an application for a GHG authority about the financial resources or technical advice available to the applicant or the applicant's previous compliance with a condition or provision of a GHG authority

- (4) If—
- (a) a person is required or permitted to give the Minister or the chief executive (the *official*) information for a particular purpose relating to this Act; and
 - (b) this Act does not provide for how the information may or must be given to the official for the purpose; and
 - (c) the person gives the official the information in the way required or permitted under the directions;
- the person is taken to have given the official the information for the purpose.
- (5) Unless a direction states a particular office of the department where the information must be given, the information must be given at the office of the chief executive.
- (6) The chief executive must—
- (a) keep—
 - (i) a copy of each direction; and

[s 428]

- (ii) a record (by whatever name called) of each direction including the dates when each direction was published and superseded; and
 - (b) make each direction and the record available to the public in the way the chief executive considers appropriate.
- (7) Without limiting subsection (6), the chief executive must ensure an up-to-date copy of each direction and the record is available to be read free of charge at each office of the department and on the department's website.

428 Approved forms

- (1) The chief executive may approve forms for use under this Act.
- (2) A form may be approved for use under this Act that is combined with or is to be used together with an approved form under another Act.

429 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—
 - (a) be made about the fees payable under this Act including late payment fees; or
 - (b) impose a penalty for a contravention of a provision of a regulation of no more than 20 penalty units.

Chapter 8 Transitional provisions

430 Definitions for ch 8

In this chapter—

assent means the date of assent of this Act.

new GHG permit see section 432(1).

Zerogen means Zerogen Pty Ltd (ACN 118 696 932).

431 Conversion of Zerogen's P&G Act ATPs

(1) This section applies to P&G Act ATP 830 and to P&G Act ATP 835 both held by Zerogen.

(2) On assent—

(a) each of the ATPs—

(i) becomes a GHG permit; and

(ii) ceases to be a P&G Act ATP; and

(b) the work program for each of the ATPs becomes the work program for the GHG permit that it becomes.

(3) The Minister may amend the following in any way the Minister considers appropriate to reflect the changes under subsection (2)—

(a) the instruments for the ATPs;

(b) their work programs under the P&G Act.

(4) In this section—

amend includes remake.

P&G Act ATP means an ATP under the P&G Act.

432 New GHG permit for Zerogen

(1) On assent, Zerogen is taken to have been granted a GHG permit (the *new GHG permit*) for the following sub-blocks—

[s 432]

Charleville block identification map

Block	Sub-blocks
55	a, b, c, d, e, f, g, h, j, k, m, n, o, p, s, t, u, x, y and z
56	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z

Clermont block identification map

Block	Sub-blocks
3147	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3219	a, b, c, d, e, f, g, h, j and k
3291	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3364	a, b, f, g, l, m, n, q, r, s, v, w and x
3365	c, d, e, h, j, k, n, o, p, t, u and z
3366	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3436	a, b, c, d, e, f, g, h, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y and z
3437	f, l, q, r, v, w and x
3438	a, b, c, d, e, g, h, j, k, n, o, p, s, t, u, y and z

(2) In this section—

block identification map means a map that forms part of the series of maps known as the ‘Block Identification Map—Series B’ held by the department.

433 Authorised activities under Zerogen GHG permits may start from assent

- (1) From assent, Zerogen may, subject to this Act, carry out all authorised activities for any of its GHG permits mentioned in this chapter as if all of this Act commences on assent.
- (2) Without limiting subsection (1), chapter 4, part 6, division 1 applies for the GHG permits from assent.

Editor's note—

chapter 4, part 6 (Additional provisions for GHG authorities)

- (3) The authorised activities may be carried out despite chapter 4, part 6, division 1.
- (4) Chapter 2, part 5 applies to the carrying out of the authorised activities.

434 Deciding provisions of new GHG permit

- (1) Zerogen must give the Minister a proposed work program for the new GHG permit as if all of this Act commences on assent.
- (2) The proposed work program must comply with the initial work program requirements.
- (3) As soon as practicable after Zerogen complies with subsection (2), the Minister must—
 - (a) decide whether to approve the proposed work program; and
 - (b) if the approval is given—
 - (i) decide the provisions of the instrument for the GHG permit other than provisions relating to the permit's area; and
 - (ii) give Zerogen the instrument.
- (4) For subsection (3), sections 41, 44 and 45 apply as if—
 - (a) a call for tenders had been made for the area of each of the GHG permits; and

[s 435]

- (b) Zerogen had been the successful tenderer under the call for tenders.

435 Test plan for new GHG permit

Despite section 80 not having commenced, Zerogen may give the Minister, and the Minister may approve under that section a test plan for GHG storage injection testing relating to the new GHG permit.

436 Functions under chapter may be performed before assent

- (1) If before assent the Minister or Zerogen purports to perform a function under this chapter that can be performed from assent, the function is taken to have been validly performed on assent.
- (2) In this section—
function includes power.

Chapter 9 Amendment of other Acts

Part 1 Amendment of Aboriginal Land Act 1991

437 Act amended in pt 1

This part amends the *Aboriginal Land Act 1991*.

438 Amendment of s 41 (Provision about resumption of transferred land etc.)

Section 41(5), definition *relevant purpose*—

insert—

‘(c) the *Greenhouse Gas Storage Act 2009*.’.

439 Amendment of s 78 (Provision about resumption of granted land etc.)

Section 78(5), definition *relevant purpose—*

insert—

‘(c) the *Greenhouse Gas Storage Act 2009*.’.

Part 2 Amendment of Coastal Protection and Management Act 1995

440 Act amended in pt 2

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

441 Amendment of schedule (Dictionary)

Schedule, definition *interest—*

insert—

‘(c) a GHG injection and storage lease granted under the *Greenhouse Gas Storage Act 2009*.’.

[s 442]

Part 3 **Amendment of Dangerous Goods Safety Management Act 2001**

442 **Act amended in pt 3**

This part amends the *Dangerous Goods Safety Management Act 2001*.

443 **Amendment of s 3 (Application of Act)**

Section 3(1)—

insert—

- ‘(e) land that, under the *Greenhouse Gas Storage Act 2009*, is used to carry out GHG stream storage; or
- (f) a GHG stream pipeline under the *Greenhouse Gas Storage Act 2009*, other than within the boundaries of a major hazard facility or dangerous goods location.’.

Part 4 **Amendment of Duties Act 2001**

444 **Act amended in pt 4**

This part amends the *Duties Act 2001*.

445 **Amendment of s 137 (Exemption—mining and petroleum legislation)**

- (1) Section 137, heading, ‘mining and petroleum’—

omit, insert—

‘mining, petroleum and other particular’.

- (2) Section 137(3), from ‘sublease under’—

omit, insert—

sublease under a—

- (a) coordination arrangement under the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (b) GHG coordination arrangement under the *Greenhouse Gas Storage Act 2009*.’.

Part 5 **Amendment of Electrical Safety Act 2002**

446 Act amended in pt 5

This part amends the *Electrical Safety Act 2002*.

447 Amendment of s 6 (Application of Act to mines and petroleum plant)

- (1) Section 6, heading, ‘and petroleum plant’—

omit, insert—

‘, **petroleum plant and GHG storage plant**’.

- (2) Section 6, ‘or petroleum plant’—

omit, insert—

‘, petroleum plant or GHG storage plant’.

- (3) Section 6(3), definition *petroleum plant*—

omit.

- (4) Section 6(3)—

insert—

‘**GHG storage plant** means private plant or an electrical installation that is operated under *Greenhouse Gas Storage*

[s 448]

Act 2009 and subject to inspection under the *Petroleum and Gas (Production and Safety) Act 2004*.

petroleum plant means private plant or an electrical installation that is operated under the *Petroleum and Gas (Production and Safety) Act 2004* and subject to inspection under that Act.’.

Part 6 Amendment of Electricity Act 1994

448 Act amended in pt 6

This part amends the *Electricity Act 1994*.

449 Amendment of s 40H (Contracting out of s 40E, 40G(a) or (b) or 97)

Section 40H(1), ‘sections’—

omit, insert—

‘section’.

450 Amendment of s 53 (Making or amending terms of standard large customer or street lighting customer retail contract)

Section 53, heading, ‘or street lighting customer’—

omit.

451 Amendment of ch 5A, pt 1, div 2, hdg (Definitions for ch 5A)

Chapter 5A, part 1, division 2, heading, ‘ch’—

omit, insert—

‘chapter’.

452 Amendment of ch 5A, pt 8, div 4, hdg (General offences for ch 5A)

Chapter 5A, part 8, division 4, heading, ‘ch’—

omit, insert—

‘chapter’.

Part 7 Amendment of Environmental Protection Act 1994

453 Act amended in pt 7

This part amends the *Environmental Protection Act 1994*.

454 Replacement of s 18 (Meaning of *environmentally relevant activity*)

Section 18—

omit, insert—

‘18 Meaning of *environmentally relevant activity*

‘An *environmentally relevant activity* is—

- (a) a mining activity; or
- (b) a chapter 5A activity; or

Note—

For what is a mining activity, see section 147. For what is a chapter 5A activity, see section 309A.

- (c) another activity prescribed under section 19 as an *environmentally relevant activity*.’

[s 455]

455 Amendment of s 19 (Environmentally relevant activity may be prescribed)

Section 19, ‘petroleum activity’—

omit, insert—

‘chapter 5A activity’.

456 Amendment of s 37 (When EIS process applies)

Section 37(1)(b), ‘an environmental authority (petroleum activities)’—

omit, insert—

‘an environmental authority (chapter 5A activities)’.

457 Amendment of s 38 (Who is an *affected person* for a project)

Section 38(2)(d)—

omit, insert—

‘(d) for land subject to a relevant resource authority for an environmental authority (chapter 5A activities)—the holder of the resource authority;’.

458 Amendment of ch 4 hdg (Development approvals and registration (other than for mining or petroleum activities))

Chapter 4, heading, ‘petroleum’—

omit, insert—

‘chapter 5A’.

459 Omission of ch 4A (Environmental authorities for petroleum activities)

Chapter 4A—
omit.

460 Insertion of new ch 5A

After section 309—
insert—

‘Chapter 5A Other environmental authorities

‘Part 1 Preliminary

‘309A What this chapter is about

- ‘(1) This chapter provides for environmental authorities for environmentally relevant activities for which an environmental authority is required under section 426A, namely—
- (a) greenhouse gas storage activities; and
 - (b) petroleum activities.
- ‘(2) An activity mentioned in subsection (1) is a *chapter 5A activity*.
- ‘(3) An environmental authority for a chapter 5A activity is an *environmental authority (chapter 5A activities)*.

‘309B Types of environmental authorities (chapter 5A activities)

- ‘(1) The types of environmental authority (chapter 5A activities) are a code compliant authority and a non-code compliant authority.

[s 460]

- ‘(2) A ***code compliant authority*** is an environmental authority (chapter 5A activities) issued under part 2, division 3, subdivision 1.
- ‘(3) However, a code compliant authority ceases to be a code compliant authority if, under part 3, 4 or 6, its conditions are amended or new conditions are imposed on it.
- ‘(4) A ***non-code compliant authority*** is any environmental authority (chapter 5A activities) other than a code compliant authority.

‘309C Levels for chapter 5A activities

‘Each chapter 5A activity must be prescribed under a regulation as a level 1 chapter 5A activity or a level 2 chapter 5A activity, depending on the risk of environmental harm.

‘309D What is a ***relevant resource authority***

- ‘(1) A ***relevant resource authority*** for a chapter 5A activity, an environmental authority (chapter 5A activities) or an application for, or about, an environmental authority (chapter 5A activities), is the resource authority, or proposed resource authority, to which the activity, environmental authority or application relates.
- ‘(2) In this section—
resource authority means—
 - (a) any of the following under the GHG storage Act—
 - (i) a GHG exploration permit (also called a GHG permit);
 - (ii) a GHG injection and storage lease (also called a GHG lease);
 - (iii) a GHG injection and storage data acquisition authority (also called a GHG data acquisition authority); or

- (b) a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*; or
- (c) a petroleum authority granted under the P&G Act; or
- (d) a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*.

‘309E What is *resource legislation*

Resource legislation is any of the Acts mentioned in section 309D(2).

‘309F What is a *relevant chapter 5A activity*

- ‘(1) A *relevant chapter 5A activity*, for a provision about an application for, or about, an environmental authority (chapter 5A activities) is a chapter 5A activity the subject of the application.
- ‘(2) A *relevant chapter 5A activity*, for a provision about an environmental authority (chapter 5A activities), is a chapter 5A activity the subject of the authority.

‘309G What is a *chapter 5A activity project*

‘A *chapter 5A activity project* is all chapter 5A activities of the same type under the same resource legislation carried out, or proposed to be carried out, under 1 or more relevant resource authority for that type of chapter 5A activity, in any combination, as a single integrated operation.

[s 460]

‘Part 2 Applying for and obtaining environmental authority

‘Division 1 Preliminary

‘309H Definitions for pt 2

‘In this part—

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

relevant place, for an environmental authority (chapter 5A activities), means a place, or a part of a place, to which the authority relates, but does not include premises, or a part of premises, used only for residential purposes.

submission period, for an application for an environmental authority (chapter 5A activities), means—

- (a) the submission period for the application under section 310H(1)(b) and (2); or
- (b) if section 310J applies—any new submission period fixed under section 310J(3)(b).

‘Division 2 General provisions for applications

‘Subdivision 1 Restriction on who may apply

‘309I Restriction

‘A person may apply for an environmental authority (chapter 5A activities) only if the person is the holder of, or the applicant for, a relevant resource authority for the application.

‘Subdivision 2 Chapter 5A activity projects

‘309J Single application required for chapter 5A activity project

- ‘(1) This section applies to a person who may apply for an environmental authority (chapter 5A activities) for chapter 5A activities proposed to be carried out as a chapter 5A activity project.
- ‘(2) The person may only make a single application for a single environmental authority (chapter 5A activities) for all relevant activities that form the project.
- ‘(3) If any relevant chapter 5A activity for the application is a level 1 chapter 5A activity—
 - (a) division 4 must be complied with for all of the application; but
 - (b) a submission under section 310K can not be made about any relevant chapter 5A activity that is a level 2 chapter 5A activity.
- ‘(4) If the administering authority grants the application, it may issue—
 - (a) 1 environmental authority (chapter 5A activities) for all the activities; or
 - (b) 2 or more environmental authorities (chapter 5A activities) for the activities.

‘309K Single environmental authority required for chapter 5A activity project

- ‘(1) This section applies if an environmental authority (chapter 5A activities) has been granted for a chapter 5A activity project.
- ‘(2) The holder of the authority can not apply for a separate environmental authority (chapter 5A activities) for an additional chapter 5A activity proposed to be carried out as part of the project.

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- ‘(3) Subsection (2) applies whether or not the additional activity is proposed to be carried out under another relevant resource authority as part of the project.
- ‘(4) This section does not prevent the holder from applying to amend or replace the environmental authority.

‘Subdivision 3 Joint applications

‘309L Application of sdiv 3

‘This subdivision applies if 2 or more persons (*joint applicants*) jointly apply for 1 or more environmental authorities (chapter 5A activities).

‘309M Joint application may be made

- ‘(1) The administering authority may accept an application (a *joint application*) made for all the joint applicants by 1 of the joint applicants if it is satisfied the person is authorised to make the application for all the joint applicants.
- ‘(2) More than 1 joint application may be made by the person for the same joint applicants only if the applications relate to different chapter 5A activity projects.

‘309N Appointment of principal applicant

- ‘(1) The joint applicants may appoint 1 of them as the principal applicant for a joint application made by them.
- ‘(2) However, the appointment may be made only—
 - (a) in the joint application; or
 - (b) by a signed notice from all the joint applicants to the administering authority.
- ‘(3) The joint applicants may, by a signed notice from all of them to the authority, cancel the appointment.

‘309O Effect of appointment

‘If a person holds an appointment as the principal applicant for a joint application—

- (a) the principal applicant may, for all applicants for the application, give the administering authority a notice or other document relating to the application; and
- (b) the authority may—
 - (i) give a notice or other document relating to the application to all the applicants by giving it to the principal applicant; or
 - (ii) make a requirement under this chapter relating to the application of all the applicants by making it of the principal applicant.

Note—

See also part 8 (Principal holders).

‘Division 3 Level 2 chapter 5A activities

‘Subdivision 1 Code compliant authorities

‘309P Operation of sdiv 1

- ‘(1) This subdivision provides the process to obtain, by application, an environmental authority (chapter 5A activities) for a level 2 chapter 5A activity if—
- (a) there are relevant codes of environmental compliance for relevant activities for the authority; and
 - (b) the applicant elects to comply with the codes in carrying out relevant activities for the authority.

Note—

See also section 312V (Restrictions on authority or transfer taking effect).

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- ‘(2) The election is taken to have been made on the making of an application under this subdivision.

‘309Q Requirements for application

‘The application must—

- (a) be made to the administering authority in the approved form; and
- (b) describe—
 - (i) each relevant resource authority for the application; and
 - (ii) all relevant activities for the application; and
- (c) certify that the applicant can, in carrying out the relevant activities for the environmental authority (chapter 5A activities), comply with the code compliance condition; and
- (d) be accompanied by the fee prescribed under a regulation.

Note—

A subsequent failure to comply with the code compliance condition may result in the commission of an offence or an action to amend, suspend or cancel the authority. See sections 309T, 312E(2)(b), 312F(2)(a) and 480(4).

‘309R Deciding application

- ‘(1) If the application complies with section 309Q, the administering authority must decide to grant the application.
- ‘(2) Otherwise, the administering authority must refuse the application.

‘309S Steps after granting application and the giving of financial assurance

- ‘(1) If the administering authority decides to grant the application,

it must, within 8 business days after the decision is made, take the steps mentioned in subsection (3).

- ‘(2) However, if, under section 312O, financial assurance has been required for the proposed environmental authority (chapter 5A activities), the steps need not be taken until the requirement has been complied with.
- ‘(3) For subsection (1), the steps are—
 - (a) issue the environmental authority in the approved form; and
 - (b) insert it in the appropriate register; and
 - (c) give the applicant a copy of the authority.

Note—

See however section 312V (Restrictions on authority or transfer taking effect).

‘309T Code compliance condition

- ‘(1) The code compliant authority is taken to include a condition (the *code compliance condition*) that the applicable codes of environmental compliance for relevant activities for the authority must be complied with.
- ‘(2) For subsection (1), the applicable codes are—
 - (a) generally—the relevant codes of environmental compliance for relevant activities for the authority, as they were in force when the application was made; or
 - (b) if any code mentioned in paragraph (a) is changed or replaced—the changed or replaced code, from 1 year after the change or replacement.
- ‘(3) However, for chapter 5A activities carried out in a wild river area, the applicable codes are—
 - (a) the codes mentioned in subsection (2); and
 - (b) the conditions stated, for relevant activities for the authority, in the wild river declaration for the area.

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- ‘(4) While the authority continues to be a code compliant authority, the code compliance condition is the only condition of the authority.

Note—

For when a code compliant authority becomes a non-code compliant authority, see section 309B (Types of environmental authorities (chapter 5A activities)).

‘Subdivision 2 Non-code compliant authorities

‘309U Operation of sdiv 2

- ‘(1) This subdivision provides the process to obtain, by application, an environmental authority (chapter 5A activities) for a level 2 chapter 5A activity if—
- (a) there are no relevant codes of environmental compliance for relevant activities for the authority; or
 - (b) there are relevant codes, but the applicant elects not to comply with the codes in carrying out relevant activities for the authority.
- ‘(2) The election is taken to have been made on the making of an application under this subdivision.

‘309V Requirements for application

‘The application must—

- (a) be made to the administering authority in the approved form; and
- (b) describe—
 - (i) each relevant resource authority for the application; and
 - (ii) all relevant activities for the application; and

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

‘309W Conditions may be requested

- ‘(1) The applicant may ask the administering authority to impose a particular condition on the environmental authority (chapter 5A activities) applied for if the condition—
 - (a) may be imposed under section 309Z; and
 - (b) is not inconsistent with a condition that must be imposed under section 309Z.
- ‘(2) The request must be—
 - (a) made in the application or, if the request is made after the application is made, in the approved form for the request; and
 - (b) supported by enough information to allow the authority to decide whether to impose the condition; and
 - (c) accompanied by the fee prescribed under a regulation.
- ‘(3) The fee under subsection (2)(c) is in addition to the application fee.

‘309X Deciding application

‘The administering authority must, within 20 business days after the application date, decide to grant or refuse the application.

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‘309Y Criteria for decision

‘In deciding whether to grant or refuse the application or to impose a condition under section 309Z, the administering authority—

- (a) must comply with any relevant regulatory requirement; and
- (b) subject to paragraph (a), must consider each of the following—
 - (i) the standard criteria;
 - (ii) if any part of the application relates to a wild river area—the wild river declaration for the area;
 - (iii) additional information given for the application;
 - (iv) any suitability report obtained for the application;
 - (v) the views expressed at a conference held for the application;
 - (vi) the status of the application under resource legislation for each relevant resource authority for the application.

‘309Z Conditions that may and must be imposed

- ‘(1) The administering authority may impose the conditions on the environmental authority (chapter 5A activities) it considers are necessary or desirable.
- ‘(2) The conditions must include—
 - (a) any condition the administering authority is required to impose under a regulatory requirement; and
 - (b) for chapter 5A activities carried out in a wild river area—the conditions stated, for relevant chapter 5A activities for the authority, in the wild river declaration for the area.
- ‘(3) Without limiting subsections (1) and (2), the conditions may—

-
- (a) require the environmental authority holder to do all or any of the following—
- (i) install and operate stated plant or equipment in a stated way within a stated period;
 - (ii) take stated measures to minimise the likelihood of environmental harm being caused;
 - (iii) carry out and report on a stated monitoring program;
 - (iv) prepare, and comply with, a transitional environmental program;
 - (v) give relevant information reasonably required by the administering authority for the administration or enforcement of this Act;
 - (vi) carry out or report about stated rehabilitation or remediation work relating to a relevant chapter 5A activity; or
- (b) prohibit the holder from changing, replacing or operating any plant or equipment installed at the relevant place for the environmental authority if the change, replacement or operation increases, or is likely to substantially increase, the risk of environmental harm; or
- (c) provide that the environmental authority ceases, or ceases to have effect—
- (i) on a stated day; or
 - (ii) when a stated period ends; or
 - (iii) on the happening of a stated event; or
 - (iv) if a stated event has not happened on or before a stated day.

Example of a stated event—

the granting of a relevant resource authority for the environmental authority

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

Example—

A condition may—

- (a) be about rehabilitation of the land to which the environmental authority relates after the authority has ended; or
- (b) require a site management plan for the land.

‘(5) Despite subsections (1) to (4), if a relevant resource authority for the environmental authority is, or is included in, a significant project—

- (a) all conditions for the environmental authority stated in the Coordinator-General’s report for the project (the ***Coordinator-General’s conditions***) must be imposed on the environmental authority; and
- (b) any other condition imposed on the environmental authority must not be inconsistent with the Coordinator-General’s conditions.

‘(6) A condition may be imposed even if the applicant did not ask for it under section 309W.

‘310 Steps after granting application and the giving of financial assurance

‘(1) If the administering authority decides to grant the application, it must, within 8 business days after the decision is made, take the steps mentioned in subsection (3).

‘(2) However, if, under section 312O, financial assurance has been required for the proposed environmental authority (chapter 5A activities), the steps need not be taken until the requirement has been complied with.

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

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

'310A Information notice about particular decisions

'The administering authority must, within 8 business days after making a decision to do any of the following, give the applicant an information notice about the decision—

- (a) refuse the application;
- (b) impose a condition on the environmental authority (chapter 5A activities), other than a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant.

'Division 4 Level 1 chapter 5A activities

'310B Operation of div 4

'This division provides the process to obtain, by application, an environmental authority (chapter 5A activities) for a level 1 chapter 5A activity.

'310C Requirements for application

'The application must—

- (a) be made to the administering authority in the approved form; and
- (b) describe—
 - (i) each relevant resource authority for the application; and
 - (ii) all relevant activities for the application; and

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- (c) be supported by enough information to allow the authority to decide the application, including for example—
 - (i) relevant information about the likely risks to the environment; and
 - (ii) details of wastes to be generated; and
 - (iii) any waste minimisation strategy; and
- (d) be accompanied by—
 - (i) an environmental management plan that complies with section 310D(2); and
 - (ii) the fee prescribed under a regulation.

‘310D Environmental management plan

- ‘(1) The purpose of an environmental management plan is to propose environmental protection commitments to help the administering authority decide the conditions of the environmental authority (chapter 5A activities).
- ‘(2) An environmental management plan must—
 - (a) be in the approved form; and
 - (b) describe each of the following—
 - (i) each relevant resource authority for the environmental authority;
 - (ii) all relevant activities the subject of the application;
 - (iii) the land on which the activities are to be carried out;
 - (iv) the environmental values likely to be affected by the activities;
 - (v) the potential adverse and beneficial impacts of the activities on the environmental values; and
 - (c) state the environmental protection commitments the applicant proposes for the activities to protect or

-
- enhance the environmental values under best practice environmental management; and
- (d) contain enough other information to allow the administering authority to decide the application and conditions to be imposed on the environmental authority (chapter 5A activities); and
 - (e) address any other matter prescribed under an environmental protection policy or regulation.
- ‘(3) The environmental protection commitments must include a rehabilitation program for land proposed to be disturbed under each relevant resource authority for the application.
- ‘(4) The rehabilitation program must state a proposed amount of financial assurance for the environmental authority.

‘310E EIS may be required

- ‘(1) The administering authority may, within the later of the following periods to end, decide whether an EIS is required for the application—
- (a) 10 business days after it receives the application;
 - (b) if the administering authority, within the 10 business days, gives the applicant written notice that it has fixed a longer period—the longer period.
- ‘(2) However, despite any decision by the administering authority, the Minister may, at any time before the application is decided, decide—
- (a) whether there is to be an EIS requirement for the application; and
 - (b) at what stage, or step within a stage, under this division, the processing of the application must start or resume.
- ‘(3) The administering authority and the Minister must, in making a decision under this section, consider the standard criteria.

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‘(4) The administering authority must, within 10 business days after a decision is made under this section, give the applicant written notice of the decision.

‘(5) Despite subsections (1) and (2), an EIS must not be required for the application if a relevant resource authority for the application is, or is included in, a significant project.

Note—

For EISs for significant projects, see the State Development Act, section 28 (Application of divs 3–6) and part 4, division 3 (EIS process).

‘(6) Also, a decision under subsection (1) or (2) ceases to have effect if a relevant resource authority for the application is, or is included in, a significant project.

‘310F Public access to application

‘The administering authority must, from the application date to the review date—

- (a) keep the application open for inspection by members of the public at the authority’s head office and the other places the chief executive considers appropriate; and
- (b) permit a person to take extracts from the application or, on payment of the appropriate fee to the authority, give the person a copy of the application, or part of the application.

‘310G Public notice of application

‘(1) The applicant must, within 2 business days after the application date publish a notice about the application (the *application notice*) in a newspaper circulating generally in the area where the relevant chapter 5A activities are proposed to be carried out.

‘(2) Subsection (1) is subject to section 310J.

‘310H Required contents of application notice

- ‘(1) The application notice must be in the approved form and state each of the following—
 - (a) that anyone may make a submission to the administering authority about the application;
 - (b) the period (the *submission period*) during which the submission may be made;
 - (c) how to make a properly made submission;
 - (d) another matter prescribed under a regulation.
- ‘(2) The submission period must not end before the later of the following—
 - (a) a day or time fixed by the authority before the notice is published;
 - (b) 8 business days after the application notice is published under section 310G.
- ‘(3) This section is subject to section 310J.

‘310I Declaration of compliance

- ‘(1) The applicant must, within 5 business days after the application date, give the administering authority a statutory declaration declaring whether or not the applicant has complied with the notice requirements under sections 310G and 310H.
- ‘(2) A copy of the application notice must be attached to the declaration.
- ‘(3) The proponent is taken to have complied with the requirements if—
 - (a) a declaration is given under this section; and
 - (b) the declaration states the proponent has complied with the requirements.

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‘310J Substantial compliance may be accepted

- ‘(1) If the applicant has not complied with the notice requirements under section 310G or 310H, the administering authority must decide whether to allow the application to proceed under this part as if the noncompliance had not happened.
- ‘(2) The authority may decide to allow the application to proceed only if it is satisfied there has been substantial compliance with the requirements.
- ‘(3) If the authority decides not to allow the application to proceed—
 - (a) any steps purportedly taken to comply with sections 310G and 310H are of no effect; and
 - (b) the authority must, within 8 business days after the decision is made, give the applicant—
 - (i) a written notice fixing a new period for giving the application notice (the *new notice period*); and
 - (ii) if the submission period under section 310H has started or will start before the new notice period—a new submission period for the application; and
 - (iii) an information notice about the decision not to allow the application to proceed and the decision to fix the new notice period.
- ‘(4) The new notice period applies despite section 310H(2).

‘310K Right to make submission

‘A person may, within the submission period, make a submission to the administering authority about the application.

‘310L Acceptance of submission

- ‘(1) The administering authority must accept the submission if it—
- (a) is written; and
 - (b) is signed by or for each person (a *signatory*) who made the submission; and
 - (c) states the name and address of each signatory; and
 - (d) is made to the authority; and
 - (e) is received on or before the last day of the submission period.
- ‘(2) A submission that complies with subsection (1) is a *properly made submission*.
- ‘(3) The authority may accept a written submission even if it is not a properly made submission.

‘310M Deciding application

‘The administering authority must, within the latest of the following periods to end, decide to grant or refuse the application—

- (a) 20 business days after the application date;
- (b) 20 business days after the authority receives the declaration of compliance under section 310I;
- (c) 8 business days after the submission period ends;
- (d) if an EIS requirement has been made for the application or a relevant chapter 5A activity is, or is included in, a significant project—20 business days after the EIS process is completed.

‘310N Criteria for decision

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

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- (a) must comply with any relevant regulatory requirement; and
- (b) subject to paragraph (a), must consider each of the following—
 - (i) the standard criteria;
 - (ii) if any part of the application relates to a wild river area—the wild river declaration for the area;
 - (iii) additional information given for the application;
 - (iv) any suitability report obtained for the application;
 - (v) any properly made submission for the application;
 - (vi) the views expressed at a conference held for the application;
 - (vii) the environmental management plan accompanying the application;
 - (viii) the status of the application under resource legislation for each relevant resource authority for the application;
 - (ix) if an EIS requirement has been made for the application—the EIS.

Note—

See also section 312U (Grounds for refusing application for or to transfer non-code compliant authority).

‘3100 Conditions that may and must be imposed

- ‘(1) The administering authority may impose the conditions on the environmental authority (chapter 5A activities) it considers are necessary or desirable.
- ‘(2) The conditions must include—
 - (a) any condition the administering authority is required to impose under a regulatory requirement; and

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- (b) for chapter 5A activities carried out in a wild river area—the conditions stated, for relevant chapter 5A activities for the authority, in the wild river declaration for the area.
- ‘(3) Without limiting subsections (1) and (2), the conditions may—
- (a) require the environmental authority holder to do all or any of the following—
 - (i) install and operate stated plant or equipment in a stated way within a stated period;
 - (ii) take stated measures to minimise the likelihood of environmental harm being caused;
 - (iii) carry out and report on a stated monitoring program;
 - (iv) prepare, and comply with, a transitional environmental program;
 - (v) give relevant information reasonably required by the administering authority for the administration or enforcement of this Act;
 - (vi) carry out or report about stated rehabilitation or remediation work relating to a relevant chapter 5A activity; or
 - (b) prohibit the holder from changing, replacing or operating any plant or equipment installed at the relevant place for the environmental authority if the change, replacement or operation increases, or is likely to substantially increase, the risk of environmental harm; or
 - (c) provide that the environmental authority ceases, or ceases to have effect—
 - (i) on a stated day; or
 - (ii) when a stated period ends; or
 - (iii) on the happening of a stated event; or

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- (iv) if a stated event has not happened on or before a stated day.

Example of a stated event—

the granting of a relevant resource authority for the environmental authority

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

Example—

A condition may—

- (a) be about rehabilitation of the land to which the environmental authority relates after the authority has ended; or
 - (b) require a site management plan for the land.
- ‘(5) Despite subsections (1) to (4), if a relevant resource authority for the environmental authority is, or is included in, a significant project—
 - (a) all conditions for the environmental authority stated in the Coordinator-General’s report for the project (the *Coordinator-General’s conditions*) must be imposed on the environmental authority; and
 - (b) any other condition imposed on the environmental authority must not be inconsistent with the Coordinator-General’s conditions.

‘310P Steps after granting application and the giving of financial assurance

- ‘(1) If the administering authority decides to grant the application, it must, within 8 business days after the decision is made, take the steps mentioned in subsection (3).
- ‘(2) However, if, under section 312O, financial assurance has been required for the proposed environmental authority (chapter 5A activities), the steps need not be taken until the requirement has been complied with.

- ‘(3) For subsection (1), the steps are—
- (a) issue the environmental authority in the approved form; and
 - (b) insert it in the appropriate register; and
 - (c) give the applicant a copy of the authority.

‘310Q Information notice about particular decisions

- ‘(1) The administering authority must, within 8 business days after making a decision to do any of the following, give the applicant and any submitter for the application an information notice about the decision—
- (a) refuse the application;
 - (b) impose a condition on the environmental authority (chapter 5A activities), other than a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant.
- ‘(2) If the administering authority decides to grant the environmental authority (chapter 5A activities) it must, within 8 business days after the decision is made, give any submitter for the application an information notice about the decision.

‘Division 5 Term of environmental authority (chapter 5A activities)

‘310R Term

‘An environmental authority (chapter 5A activities) continues in force unless it is cancelled, surrendered or suspended under this chapter.

‘Part 3 Amendments by application

‘Division 1 Making amendment application

‘310S Who may apply for amendment

‘The holder of an environmental authority (chapter 5A activities) may, at any time, apply to the administering authority to amend the environmental authority (an ***amendment application***).

Examples of when the holder may wish to make an amendment application—

- to change a relevant chapter 5A activity for the environmental authority from a level 1 chapter 5A activity to a level 2 chapter 5A activity
- to complement an application under the P&G Act, chapter 4, part 6 to amend a relevant pipeline licence
- if a relevant resource authority is an authority to prospect under the P&G Act and the holder has, under chapter 2, part 2, division 2 of that Act, made an ATP-related application for a petroleum lease

‘310T Code compliance condition may be amended

‘An amendment application for a code compliant authority may seek to amend the code compliance condition or to impose new conditions on the authority.

Note—

If the amendment is made, the authority will become a non-code compliant authority. See section 309B.

‘310U Requirements for amendment application

‘An amendment application must be—

- (a) in the approved form; and

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

‘Division 2 Processing amendment application

‘310V EIS may be required

- ‘(1) The administering authority may, within the later of the following periods to end, decide whether an EIS is required for an amendment application—
 - (a) 10 business days after it receives the application;
 - (b) if the administering authority, within the 10 business days, gives the applicant written notice that it has fixed a longer period—the longer period.
- ‘(2) However, despite any decision by the administering authority, the Minister may, at any time before the application is decided, decide—
 - (a) whether there is to be an EIS requirement for the application; and
 - (b) at what stage, or step within a stage, under this part the processing of the application must start or resume.
- ‘(3) The administering authority and the Minister must, in making a decision under this section, consider the standard criteria.
- ‘(4) The administering authority must, within 10 business days after a decision is made under this section, give the applicant written notice of the decision.
- ‘(5) Despite subsections (1) and (2), an EIS must not be required for the application if a relevant resource authority for the application is, or is included in, a significant project.
- ‘(6) Also, a decision under subsection (1) or (2) ceases to have effect if a relevant resource authority for the application is, or is included in, a significant project.

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‘310W Public notice may be required if application is for level 1 activity

- ‘(1) This section applies for an amendment application only if it is for an environmental authority (chapter 5A activities) for a level 1 chapter 5A activity.
- ‘(2) The administering authority may, within 5 business days after the application date for the application, by written notice to the applicant, decide that sections 310F to 310L apply for the application (a *public notice requirement*).
- ‘(3) However, a public notice requirement must not be made unless the administering authority is satisfied there is likely to be a substantial increase in the risk of environmental harm under the amended environmental authority (chapter 5A activities) because of a substantial change in—
 - (a) the quantity or quality of contaminant authorised to be released into the environment; or
 - (b) the results of the release of a quantity or quality of contaminant authorised to be released into the environment.
- ‘(4) Without limiting subsection (3)(a), each of the following is taken to be a substantial change—
 - (a) an increase of 10% or more in the quantity of a contaminant to be released into the environment;
 - (b) if the amendment application is for an environmental authority (chapter 5A activities) for a chapter 5A activity project and the amendment is to add a level 1 chapter 5A activity to the authority.
- ‘(5) The notice must be accompanied by, or include, an information notice about the decision.

‘310X Public notice process

- ‘(1) If a public notice requirement is made for an amendment application, sections 310F to 310L apply for the application, with necessary changes, as if the application were an

application for an environmental authority (chapter 5A activities) for a level 1 chapter 5A activity.

- ‘(2) However, for applying a section, the reference in the section to a number of business days after the application date is taken to be—
- (a) for section 310G—15 business days; or
 - (b) for section 310I—19 business days.
- ‘(3) To remove any doubt, it is declared that a submission made under section 310K, as applied under subsection (1)—
- (a) may be made about an existing provision of the environmental authority only to the extent the provision is proposed to be amended under the application; and
 - (b) can not be made about relevant chapter 5A activities carried out under the authority before the deciding of the application.

‘310Y Deciding application

- ‘(1) The administering authority must decide to grant or refuse an amendment application within the latest of the following periods to end—
- (a) 20 business days after the application date for the application;
 - (b) if a public notice requirement has been made for the application, the later of the following periods to end—
 - (i) 20 business days after the authority receives the declaration of compliance under section 310I;
 - (ii) 8 business days after the submission period ends;
 - (c) if an EIS requirement has been made for the application or a relevant chapter 5A activity is, or is included in, a significant project—20 business days after the EIS process is completed.

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- ‘(2) The administering authority may decide to grant the application subject to the applicant’s written agreement to the administering authority amending the environmental authority (chapter 5A activities) in a stated way that it considers is necessary or desirable.

‘310Z Criteria for decision

- ‘(1) The administering authority may grant an amendment application if it is satisfied the amendment is necessary or desirable.
- ‘(2) However, in deciding the application, the administering authority must consider any criteria that apply for deciding an application to obtain the environmental authority (chapter 5A activities).
- ‘(3) In considering whether the amendment is necessary or desirable, the administering authority may have regard to—
- (a) an existing provision of the environmental authority whether or not the provision is proposed to be amended under the application; and
 - (b) all or any of the relevant chapter 5A activities carried out under the environmental authority before the deciding of the application.

‘Division 3 Miscellaneous provisions

‘311 Steps after making decision

‘If the administering authority decides to grant an amendment application, it must do each of the following within 8 business days after the decision is made—

- (a) amend the environmental authority (chapter 5A activities) to give effect to the amendment;
- (b) record particulars of the amendment in the appropriate register;

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- (c) give the applicant a copy of the amended environmental authority.

‘311A When amendment takes effect

- ‘(1) An amendment made under section 311(a) takes effect on the latest of the following days—
 - (a) the day of the amendment;
 - (b) a later day of effect stated in the amended environmental authority (chapter 5A activities);
 - (c) another day agreed to by the holder of the environmental authority;
 - (d) if a public notice requirement has been made for the application and a properly made submission was made about the application—the day after the review date.
- ‘(2) For subsection (1)(b) the day may be stated by reference to the day a particular event happens, including for example, a stated amendment of a relevant resource authority for the environmental authority.

‘311B Information notice about particular decisions

- ‘(1) The administering authority must, within 8 business days after making any of the following decisions, give the applicant an information notice about the decision—
 - (a) a decision to refuse an amendment application;
 - (b) a decision under section 310Y(2) to grant an amendment application subject to the applicant’s written agreement to the administering authority amending the environmental authority (chapter 5A activities) in a stated way.
- ‘(2) However, the information notice need not be given if the applicant has given the written agreement.

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- ‘(3) If the administering authority has made a public notice requirement for an amendment application, it must, within 8 business days after deciding to grant the application, give any submitter for the application an information notice about the decision.

‘Part 4 Transfers

‘311C Transfer only by approval

- ‘(1) Subsections (2) to (5) apply to the following—
- (a) a transfer of an environmental authority (chapter 5A activities);
 - (b) a transfer of an application for an environmental authority (chapter 5A activities).
- ‘(2) The transfer may be made only if—
- (a) an application for the transfer has been made under this part (a *transfer application*); and
 - (b) the administering authority has approved the transfer.
- ‘(3) To remove any doubt, it is declared that a transfer application may be made, and a transfer may be approved, for a transfer from joint holders of an environmental authority (chapter 5A activities) under which 1 or more of the joint holders will continue to hold the environmental authority.
- ‘(4) A transfer application may be made under which—
- (a) the proposed transferor seeks to divide an environmental authority (chapter 5A activities) held by the proposed transferor into 2 or more environmental authorities (chapter 5A activities); and

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- (b) the proposed transferor will remain the holder of one or more of the environmental authorities or an interest in them and transfer the rest to the proposed transferee.
- ‘(5) For a transfer of an application for an environmental authority (chapter 5A activities), sections 311D to 311J apply—
- (a) as if a reference otherwise to a holder of the environmental authority were a reference to the applicant for the authority; and
 - (b) as if a reference to the environmental authority were a reference to the environmental authority applied for.
- ‘(6) In this section—
- transfer*, of an application for an environmental authority (chapter 5A activities), includes amending the application so that someone other than the current applicant becomes an applicant.

‘311D General requirements for transfer application

‘A transfer application must be—

- (a) made to the administering authority in the approved form; and
- (b) made by each of the following (the *applicants*)—
 - (i) the holder of the environmental authority (chapter 5A activities);
 - (ii) the proposed transferee; and
- (c) supported by enough information to allow the administering authority to decide the application; and
- (d) accompanied by the fee prescribed under a regulation.

‘311E Amendment application may accompany transfer application

- ‘(1) The applicants may, together with the transfer application, make an amendment application for the environmental authority (chapter 5A activities).

Note—

If the amendment is made and the conditions of a code compliant authority are amended or new conditions are imposed on it, the authority will become a non-code compliant authority. See section 309B.

- ‘(2) Part 3 applies, with necessary changes, to the amendment application as if a reference to the environmental authority holder included a reference to the proposed transferee.
- ‘(3) However, the amendment application must not be granted before the transfer application is granted or if the transfer application is refused.

‘311F Additional requirement for transfer application for code compliant authority if no amendment application made

- ‘(1) This section applies if—
- (a) the environmental authority (chapter 5A activities) is a code compliant authority; and
 - (b) the transfer application is not accompanied by an amendment application.
- ‘(2) The transfer application must also include a certification by the proposed transferee that the proposed transferee can, in carrying out the relevant chapter 5A activities for the environmental authority, comply with the code compliance condition.

Note—

A subsequent failure to comply with the code compliance condition may result in the commission of an offence or in action to amend, suspend or cancel the authority. See sections 309T, 312E(2)(b), 312F(2)(a) and 480(4).

‘311G Audit statement may be required

- ‘(1) The administering authority may, within 20 business days after a transfer application is made, require the applicants to give it an audit statement for the environmental authority (chapter 5A activities).
- ‘(2) The audit statement must—
 - (a) be made by or for the environmental authority holder; and
 - (b) state the extent to which activities carried out under each relevant resource authority for the environmental authority have complied with the conditions of the environmental authority; and
 - (c) state whether or not the amount of financial assurance currently given, or proposed to be given for the transferred environmental authority, has been worked out in a way acceptable to the administering authority.
- ‘(3) For subsection (2)(c), an amount of financial assurance is taken to have been worked out in a way acceptable to the administering authority if it is worked out in the way provided for in a relevant guideline, policy or rule published by the administering authority.

‘311H Deciding application

- ‘(1) The administering authority must, within 20 business days after the application date, consider each transfer application and decide to approve or refuse the transfer.
- ‘(2) The administering authority must, in making the decision, consider—
 - (a) the status of any application under resource legislation for the transfer to the proposed transferee of any relevant resource authority for the environmental authority; and
 - (b) any suitability report obtained for the application.

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‘311I Additional ground for refusal

- ‘(1) The administering authority may refuse a transfer application if—
- (a) the applicants did not, under section 311E(1), also apply to amend the relevant environmental authority (chapter 5A activities); and
 - (b) the administering authority is satisfied that, if the application were to be granted, a ground for amending the environmental authority under section 312E would exist.
- ‘(2) Subsection (1) does not limit the grounds on which the application may be refused.

‘311J Steps after making decision

- ‘(1) If the administering authority decides to approve a transfer, other than of a type mentioned in section 311C(4), it must, within 8 business days after the decision is made—
- (a) amend the environmental authority (chapter 5A activities) to give effect to the transfer; and
 - (b) record particulars of the transfer in the appropriate register; and
 - (c) give the transferee a copy of the transferred environmental authority.
- ‘(2) If the administering authority decides to approve a transfer of a type mentioned in section 311C(4), it must, within 8 business days after the decision is made—
- (a) divide the environmental authority as provided for in the approval; and
 - (b) record particulars of the division in the appropriate register; and
 - (c) give the transferee a copy of each environmental authority of which, under the approval, the transferee is to become the holder.

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- ‘(3) However, if any of the following requirements has been made, subsections (1) and (2) do not apply until the requirement has been complied with—
- (a) a requirement under section 312O, to give financial assurance for the transferred environmental authority;
 - (b) a requirement under section 312P to change the financial assurance for the environmental authority.
- ‘(4) If the authority decides to refuse a transfer, it must, within 8 business days after the decision is made, give the applicants for the transfer an information notice about the decision.

‘Part 5 Surrenders

‘Division 1 Surrender applications

‘311K Surrender only by approval

- ‘(1) An environmental authority (chapter 5A activities) may be surrendered only if—
- (a) an application for the surrender has been made under this division (a *surrender application*); and
 - (b) the administering authority has approved the surrender.
- ‘(2) The holder of an environmental authority (chapter 5A activities) must make a surrender application if required under section 312A.
- ‘(3) The holder may make a surrender application at any other time.

‘311L Requirements for surrender application

- ‘(1) A surrender application must be—

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- (a) in the approved form; and
 - (b) supported by enough information to allow the administering authority to decide the application; and
 - (c) accompanied by—
 - (i) a final rehabilitation report for the environmental authority (chapter 5A activities), that complies with section 311M; and
 - (ii) an audit statement for the environmental authority; and
 - (iii) the fee prescribed under a regulation.
- ‘(2) The audit statement must—
- (a) be made by or for the environmental authority holder; and
 - (b) state the extent to which—
 - (i) activities carried out under the environmental authority have complied with its conditions; and
 - (ii) the final rehabilitation report is accurate.

‘Division 2 Final rehabilitation reports

‘311M Content requirements for final rehabilitation report

‘A final rehabilitation report must—

- (a) be in the approved form; and
- (b) state the extent to which activities carried out under each relevant resource authority for the environmental authority to which the surrender application relates have been consistent with the environmental protection commitments under any relevant environmental management plan; and
- (c) include enough information to allow the administering authority to decide whether—

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- (i) the conditions of the environmental authority (chapter 5A activities) have been complied with; and
 - (ii) the land on which each relevant chapter 5A activity has been carried out has been satisfactorily rehabilitated; and
- (d) describe any ongoing environmental management needs for the land; and
- (e) include another matter prescribed under a regulation.

‘311N Amending report

- ‘(1) This section applies if a person has submitted a final rehabilitation report (the *original report*).
- ‘(2) The person may amend the original report at any time before the administering authority decides the surrender application.
- ‘(3) However, an amendment may be made only by giving the authority written notice stating the amendment (an *FRR amendment notice*).
- ‘(4) An FRR amendment notice must be accompanied by the fee prescribed under a regulation.
- ‘(5) The submitted final rehabilitation report is taken to be the original report, as amended from time to time by any FRR amendment notice given for the original report.

‘311O FRR assessment report may be given

‘The administering authority may give the person who submitted a final rehabilitation report an assessment report (an *FRR assessment report*) about the final rehabilitation report.

‘Division 3

General provisions for processing surrender applications

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‘311P Deciding application

‘The administering authority must consider each surrender application and, within 20 business days after the application is received by the authority, approve or refuse the surrender.

‘311Q Criteria for decision

- ‘(1) In deciding a surrender application, the administering authority must—
- (a) comply with any relevant regulatory requirement; and
 - (b) subject to paragraph (a), consider each of the following—
 - (i) the standard criteria;
 - (ii) the audit statement and final rehabilitation report that accompanied the application;
 - (iii) any relevant FRR assessment report;
 - (iv) another matter prescribed under an environmental protection policy or regulation.
- ‘(2) The administering authority may grant the application only if—
- (a) it is satisfied the conditions of the environmental authority (chapter 5A activities) have been complied with; or
 - (b) it is satisfied the land to which the surrender application relates has been satisfactorily rehabilitated; or
 - (c) it has approved a transitional environmental program and it is satisfied the land will be satisfactorily rehabilitated under the program; or
 - (d) a suitability statement has been given for the land and—
 - (i) the land has been removed from the environmental management register; or

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- (ii) a site management plan has been approved for the land.

‘311R Steps after making decision

‘The administering authority must, within 10 business days after deciding a surrender application—

- (a) if the decision is to approve the surrender—
 - (i) record particulars of the surrender in the appropriate register; and
 - (ii) give the applicant written notice of the decision; or
- (b) if the decision is to refuse the surrender—give the applicant an information notice about the decision.

‘Division 4 Additional surrender process provisions for greenhouse gas storage activities

‘Subdivision 1 Preliminary

‘311S Application of div 4

‘This division applies for a surrender application for an environmental authority (chapter 5A activities) only if it is for greenhouse gas storage activities.

‘Subdivision 2 Residual risks requirements

‘311T Payment may be required for residual risks of rehabilitation

- ‘(1) The administering authority may require the applicant to pay the administering authority a stated amount within a stated

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reasonable period for the residual risks of the area the subject of the environmental authority (the *relevant area*).

‘(2) A requirement under subsection (1) is a **GHG residual risks requirement**.

‘(3) In this section—

residual risks, of the relevant area, means all or any of the following—

- (a) the risk that, although the rehabilitation appeared to be satisfactory when the relevant area was assessed for the surrender application—
 - (i) it will, in the foreseeable future, fail to perform as predicted in a relevant or final rehabilitation report; and
 - (ii) the failure will result in the need for repair, replacement or maintenance work for the relevant area;
- (b) the risk that the relevant area will need ongoing management;

Examples of ongoing management—

- continuation of a monitoring and verification plan under the GHG storage Act for the relevant area to ensure GHG stream storage under that Act is taking place as predicted
- repairs to infrastructure for any GHG well in the relevant area
- the operation of pumping equipment to manage stored GHG in the relevant area

‘311U Criteria for decision to make requirement

‘The administering authority may make a GHG residual risks requirement only if it is satisfied the requirement is justified having regard to—

- (a) the degree of risk of environmental harm that is likely to happen if the relevant area is managed under the

relevant requirements of this Act and instruments made under it; and

- (b) the likelihood of action being needed to—
 - (i) reinstate rehabilitation that fails to establish a safe, stable and self-sustaining ecosystem; or
 - (ii) maintain environmental management processes needed to protect the environment; or

Example of an action for subparagraph (ii)—

plugging a GHG well that is found to be leaking GHG into an overlying aquifer

- (iii) restore the environment because of environmental harm resulting from relevant chapter 5A activities for the environment authority; and

Example of an action for subparagraph (iii)—

pumping contaminated water to the surface for treatment

- (c) the cost of likely action in comparison with the cost of best practice environmental management of the similar use of land that has not previously been affected by the activities.

‘311V Amount and form of payment

- ‘(1) The administering authority must decide the amount and form of the payment required.
- ‘(2) The administering authority may decide the amount by reference to a guideline or other publicly available document.
- ‘(3) Despite subsections (1) and (2), the administering authority must not require a payment of an amount more than the amount that, in the authority’s opinion, represents the likely rehabilitation costs.
- ‘(4) In this section—

likely rehabilitation costs means all likely costs and expenses that may be incurred in taking action to rehabilitate or restore

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and protect the environment because of environmental harm that may be caused by the residual risks of the relevant area, as defined under section 311T(3).

‘311W Information notice about GHG residual risks requirement

‘If a GHG residual risks requirement is made for the surrender application, the notice about the approval of the application under section 311R must include an information notice about the decision to make the requirement.

‘311X Restriction on surrender taking effect if residual risks requirement made

‘If a GHG residual risks requirement is made for the surrender application, until the requirement has been complied with—

- (a) a decision to approve the surrender does not take effect; and
- (b) particulars of the surrender must not be recorded under section 311R(a)(i).

‘Subdivision 3 Directions

‘311Y Directions to carry out rehabilitation may be given if surrender refused

- ‘(1) This section applies if the administering authority decides to refuse the surrender application.
- ‘(2) The administering authority may give the applicant a written direction to carry out further stated rehabilitation within a stated reasonable period.
- ‘(3) The direction must be given to the applicant with the notice of the refusal of the application required under section 311R.

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- ‘(4) The notice of refusal must include an information notice about the decision to give the direction.
 - ‘(5) In this section—
rehabilitation includes environmental management.

‘Division 5 **Additional surrender provisions for petroleum activities**

‘311Z **Application of div 5**

‘This division applies to an environmental authority (chapter 5A activities) only if it is for petroleum activities.

‘312 **Surrender may be partial**

- ‘(1) The administering authority may approve a surrender application for a part of the environmental authority.
- ‘(2) However, the administering authority may refuse the application if—
 - (a) the applicant has not made an amendment application for the part of the environmental authority not sought to be surrendered and the administering authority considers that it is appropriate to amend the environmental authority to reflect the proposed partial surrender; or
 - (b) the environmental authority is for a chapter 5A activity project and, after the proposed partial surrender, the environmental authority would not apply to all remaining areas that form the project.
- ‘(3) Subsection (2) does not limit sections 311P and 311Q.

‘312A When surrender application required

- ‘(1) The holder of the environmental authority must make a surrender application for the environmental authority—
- (a) within 30 days after—
 - (i) the cancellation of a relevant resource authority for the environmental authority; or
 - (ii) a reduction in the area of a relevant resource authority for the environmental authority under a requirement of noncompliance action taken under resource legislation; or
 - (b) within 90 days before any of the following is to happen—
 - (i) a relevant resource authority for the environmental authority is, according to its provisions, to end other than by cancellation;
 - (ii) a relinquishment of part of the area of a relevant resource authority for the environmental authority other than under a requirement of noncompliance action taken under resource legislation;
 - (iii) a surrender of part of the area of a relevant resource authority for the environmental authority.
- ‘(2) However, subsection (1)(b) does not apply if, within the 90 days—
- (a) the relevant resource authority is, under resource legislation, renewed or continued in force; or
 - (b) a replacement environmental authority (chapter 5A activities) for the environmental authority is issued to the holder.
- ‘(3) A surrender application under subsection (1) must be for the environmental authority to the extent it relates to the relevant resource authority cancelled, expired or affected by a relinquishment, reduction in area or partial surrender.

‘312B Notice by administering authority to make surrender application

- ‘(1) This section applies if the holder of the environmental authority has not made a surrender application as required under section 312A.
- ‘(2) The administering authority may, by written notice (a *surrender notice*), require the holder to make a surrender application for the environmental authority within a stated period of at least 10 business days.
- ‘(3) The surrender notice must be accompanied by, or include, an information notice about the administering authority’s decisions to make the requirement and to fix the stated period.

‘312C Failure to comply with surrender notice

‘A person to whom a surrender notice has been given must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘Part 6 Amendment, cancellation or suspension by administering authority

‘Division 1 Conditions for amendment, cancellation or suspension

‘Subdivision 1 Amendments

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‘312D Corrections

‘The administering authority may amend an environmental authority (chapter 5A activities) to correct a clerical or formal error (a *correction*) if—

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

‘312E Other amendments

‘(1) The administering authority may amend an environmental authority (chapter 5A activities) at any time if—

- (a) it considers the amendment is necessary or desirable because of a matter mentioned in subsection (2); and
- (b) the procedure under division 2 has been followed or the holder has agreed in writing to the amendment.

‘(2) For subsection (1)(a), the matter is any of the following—

- (a) a contravention of this Act by the holder;
- (b) the environmental authority was issued because of a materially false or misleading certificate, declaration or representation, made either orally or in writing;
- (c) the administering authority has, under part 7, directed or required the holder to change or replenish financial assurance for the environmental authority and the holder has not complied with the direction or requirement;
- (d) the environmental authority was issued on the basis of a miscalculation of—
 - (i) the environmental values affected or likely to be affected, by a relevant chapter 5A activity for the environmental authority; or
 - (ii) the quantity or quality of contaminant authorised to be released into the environment; or

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- (iii) the effects of the release of a quantity or quality of contaminant authorised to be released into the environment;
 - (e) a change in the way in which, or the place where, contaminants are, or are likely to be, released into the environment;
 - (f) the approval of an environmental protection policy or the approval of the amendment of an environmental protection policy;
 - (g) an environmental audit or report, or an audit statement given under this chapter;
 - (h) an environmental audit or report given under chapter 7;
 - (i) a final rehabilitation report;
 - (j) an annual return required under this Act;
 - (k) a significant change in the way in which, or the extent to which, a relevant chapter 5A activity is being carried out;
 - (l) the amendment is necessary to prevent environmental harm not already authorised under the environmental authority;
 - (m) an amendment is proposed under an amendment application;
 - (n) a report made by or for, or approved by, a recognised entity if the report is relevant to the environmental authority or an activity carried out under it;
 - (o) another circumstance prescribed under a regulation.
- ‘(3) Subsection (2)(k) applies even if an environmental management plan mentions or provides for the change.

‘Subdivision 2 Cancellation or suspension

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‘312F Conditions for cancellation or suspension

- ‘(1) The administering authority may cancel or suspend an environmental authority (chapter 5A activities) if—
- (a) it issues a replacement environmental authority for the environmental authority; or
 - (b) an event mentioned in subsection (2) has happened and the procedure under division 2 has been followed.
- ‘(2) For subsection (1)(b), the event is any of the following—
- (a) the environmental authority was issued or has been transferred because of a materially false or misleading certificate, declaration or representation, made either orally or in writing;
 - (b) the administering authority has, under part 7, directed or required the holder to give, change or replenish financial assurance for the environmental authority and the holder has not complied with the direction or requirement;
 - (c) the environmental authority holder is, after the issue of the environmental authority, convicted of an environmental offence;
 - (d) after the environmental authority has taken effect—
 - (i) the environmental authority holder no longer holds any relevant resource authority for the environmental authority; or
 - (ii) a person, other than the environmental authority holder, becomes a holder of a relevant resource authority for the environmental authority;
 - (e) the holder has been given an annual notice, audit notice or surrender notice and the notice has not been complied with.

‘Division 2 Procedure for amendment without agreement or for cancellation or suspension

‘312G Application of div 2

‘This division applies if the administering authority proposes to—

- (a) amend an environmental authority (chapter 5A activities), other than—
 - (i) to make a correction; or
 - (ii) with the written agreement of the environmental authority holder; or
- (b) cancel or suspend an environmental authority (chapter 5A activities).

‘312H Notice of proposed action

- ‘(1) The administering authority must give the environmental authority holder a written notice stating each of the following—
 - (a) the action (the *proposed action*) the administering authority proposes taking under this division;
 - (b) the grounds for the proposed action;
 - (c) the facts and circumstances that are the basis for the grounds;
 - (d) if the proposed action is to amend the environmental authority—the proposed amendment;
 - (e) if the proposed action is to suspend the environmental authority—the proposed suspension period;
 - (f) that the holder may make, within a stated period, written representations to show why the proposed action should not be taken.
- ‘(2) The stated period must end at least 20 business days after the holder is given the proposed action notice.
- ‘(3) For subsection (1)(e), the proposed suspension period may be fixed by reference to a stated event.

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Example for subsection (3)—

If a ground on which the proposed action is to be taken is that financial assurance has not been changed or replenished as directed or required under part 7, the proposed suspension period may be stated as the period ending when the financial assurance is changed or replenished as required.

‘312I Considering representations

‘The administering authority must consider any written representation made within the period stated in the notice under section 312H by the environmental authority holder.

‘312J Decision on proposed action

- ‘(1) If, after complying with section 312I, the administering authority still believes a ground exists to take the proposed action, it may—
- (a) if the proposed action was to amend the environmental authority in a stated way—make the amendment; or
 - (b) if the proposed action was to suspend the environmental authority for a stated period—suspend the environmental authority for no longer than the proposed suspension period; or
 - (c) if the proposed action was to cancel the environmental authority—either cancel the environmental authority or suspend it for a fixed period.
- ‘(2) The decision under subsection (1) is the *proposed action decision*.
- ‘(3) If the administering authority at any time decides not to take the proposed action, it must, as soon as practicable, give the holder written notice of the decision.

‘312K Notice of proposed action decision

- ‘(1) The administering authority must, within 10 business days after the proposed action decision is made—
 - (a) for a decision to amend a code compliant authority—give its holder a written notice stating the decision and the reasons for it; or
 - (b) for a decision to amend a non-code compliant authority—give its holder an information notice about the decision.
- ‘(2) The decision takes effect on the later of the following—
 - (a) the day the holder is given the notice;
 - (b) a later day of effect stated in the notice.
- ‘(3) However, if the decision was to cancel or suspend because of the conviction of the holder for an offence, the cancellation or suspension—
 - (a) does not take effect until—
 - (i) the period to appeal against the conviction ends; and
 - (ii) if the appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and
 - (b) has no effect if the conviction is quashed on appeal.

‘Division 3 Steps after making decision

‘312L Steps for corrections

‘If the administering authority decides to amend an environmental authority (chapter 5A activities) to make a correction, it must, within 10 business days after giving notice of the correction under section 312D(b)—

- (a) amend the environmental authority to give effect to the amendment; and

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- (b) record particulars of the amendment in the appropriate register.

'312M Steps for amendment by agreement

'If, under division 1, subdivision 1, the administering authority decides to amend an environmental authority (chapter 5A activities) with its holder's agreement, it must, within 10 business days—

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

'312N Steps for amendment without agreement or for cancellation or suspension

- '(1) This section applies if the proposed action decision is to take action and the decision has taken effect.
- '(2) The administering authority must, as soon as practicable—
 - (a) take the action; and
 - (b) record particulars of the action in the appropriate register.
- '(3) If the action is suspension of the environmental authority (chapter 5A activities)—
 - (a) the particulars must state when the suspension period starts and ends; and
 - (b) the suspension ends when the suspension period is stated to end.
- '(4) If the action is to amend the environmental authority, the administering authority must also give its holder a copy of the amended environmental authority as soon as practicable.

‘Part 7 Financial assurance

‘3120 Financial assurance may be required before authority is issued or transferred

- ‘(1) This section applies if, under this chapter, the administering authority decides to grant an application for, or to transfer, an environmental authority (chapter 5A activities).
- ‘(2) The administering authority may, within 8 business days after the day the decision was made, require the giving of financial assurance in a stated form or amount as security for—
 - (a) compliance with the environmental authority or the transferred environmental authority; and
 - (b) costs or expenses, or likely costs or expenses, mentioned in section 367(1).
- ‘(3) However, the requirement may be made only if the administering authority is satisfied the assurance is justified having regard to—
 - (a) the degree of risk of environmental harm being caused, or that might reasonably be expected to be caused, by relevant chapter 5A activities for the environmental authority; and
 - (b) the likelihood of action being required to rehabilitate or restore and protect the environment because of environmental harm being caused by the activities; and
 - (c) the applicant’s environmental record.
- ‘(4) The requirement must be included in, or be accompanied by, an information notice about the decision to make the requirement.
- ‘(5) The requirement may require the financial assurance to remain in force until the administering authority is satisfied no claim is likely to be made on the assurance.

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- ‘(6) The administering authority may refuse to issue or transfer the environmental authority (chapter 5A activities) until the requirement is complied with.
- ‘(7) In this section—
applicant, for an application to transfer an environmental authority (chapter 5A activities), means the proposed transferee under the application.

‘312P Power to require financial assurance if not previously required or to require a change to financial assurance

- ‘(1) The administering authority may, by complying with subsections (4) to (6), require the holder of an environmental authority (chapter 5A activities) to—
 - (a) if financial assurance has not been given for the environmental authority—give financial assurance in a stated form or amount as security for the matters mentioned in section 312O(2); or
 - (b) if financial assurance has been given for the environmental authority—change the financial assurance.
- ‘(2) The requirement may be made at any time.
- ‘(3) However, the requirement may be made only if the administering authority is satisfied it is justified having regard to the matters mentioned in section 312O(3).
- ‘(4) The administering authority must give the holder a notice—
 - (a) stating the proposed financial assurance or change to financial assurance; and
 - (b) inviting the holder to make, within a stated period, submissions about the proposal.
- ‘(5) The stated period must end at least 20 business days after the holder is given the notice.

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- ‘(6) The administering authority must, before deciding to make the requirement, consider any written submissions by the holder given within the stated period.
- ‘(7) The requirement does not take effect until the holder is given an information notice about the decision or, if the notice states a later day of effect, on that later day.
- ‘(8) In this section—
- change*, financial assurance, includes to decrease or increase its amount or replace it.
- financial assurance*, given, includes financial assurance changed because of a requirement previously made under subsection (1)(b).

‘312Q Replenishment of financial assurance

- ‘(1) This section applies if—
- (a) under section 367, all or part of the financial assurance for an environmental authority (chapter 5A activities) has been realised; and
- (b) the environmental authority is still in force.
- ‘(2) The administering authority must give the environmental authority holder a notice—
- (a) stating how much of the financial assurance has been used; and
- (b) directing the holder to, within 20 business days after the giving of the notice, replenish the financial assurance so that its amount and form comply with the financial assurance as it was required under section 312O, as changed from time to time under section 312P.
- ‘(3) It is a condition of the environmental authority that the holder must comply with the direction.

‘Part 8 Principal holders

‘312R Application of pt 8

‘This part applies if 2 or more persons jointly hold an environmental authority (chapter 5A activities).

‘312S Appointment of principal holder

- ‘(1) A person is taken to have been appointed as the principal holder of the environmental authority if—
- (a) immediately before the issue of the environmental authority, the person held appointment under section 309N(1) as the principal applicant for the application for the environmental authority; and
 - (b) the person’s appointment has not been cancelled under that section.
- ‘(2) The holders of the environmental authority may, by a signed notice from all of them to the administering authority—
- (a) appoint 1 of them as the principal holder of the environmental authority; or
 - (b) cancel the appointment of a principal holder.

‘312T Effect of appointment

‘If a holder of the environmental authority holds appointment as its principal holder—

- (a) the principal holder may, for all holders of the environmental authority, give the administering authority a notice or other document relating to the environmental authority; and
- (b) the administering authority may—

-
- (i) give a notice or other document relating to the environmental authority to all the holders by giving it to the principal holder; or
 - (ii) make a requirement under this Act relating to the environmental authority of all the holders by making it of the principal holder.

‘Part 9 Miscellaneous provisions

‘312U Grounds for refusing application for or to transfer non-code compliant authority

- ‘(1) The administering authority may refuse an application for, or to transfer, a non-code compliant authority if—
 - (a) the administering authority is satisfied the proposed holder is not a suitable person to hold an environmental authority (chapter 5A activities); or
 - (b) a disqualifying event has happened in relation to the proposed holder or another person of whom the proposed holder is a partner and the partnership is relevant to the non-code compliant authority; or
 - (c) if the proposed holder is a corporation, a disqualifying event has happened in relation to—
 - (i) any of its executive officers; or
 - (ii) another corporation of which any of its executive officers is, or has been, an executive officer.
- ‘(2) In deciding whether a proposed holder is a suitable person to hold an environmental authority (chapter 5A activities), the administering authority must consider all relevant matters, including for example—
 - (a) the proposed holder’s environmental record; and

[s 460]

- (b) the proposed holder's ability to comply with all conditions or proposed conditions of the environmental authority or proposed environmental authority.

'312V Restrictions on authority or transfer taking effect

- '(1) This section applies if an environmental authority (chapter 5A activities) is, or must be—
 - (a) issued under this chapter; or
 - (b) issued or amended to give effect to a transfer under this chapter.
- '(2) If the environmental authority states a day or an event for the authority or transfer to take effect, the authority or transfer takes effect on the stated day or when the stated event happens.
- '(3) If no day or event is stated, the environmental authority or transfer takes effect when the latest of the following happens—
 - (a) the granting, under resource legislation, of each relevant resource authority;
 - (b) each environmental authority holder has become a holder of a relevant resource authority for the environmental authority;
 - (c) if a person, other than an environmental authority holder, is a holder of any relevant resource authority for the environmental authority—the person ceases to be a holder of the authority;
 - (d) if the authority was issued under part 2, division 4, and a properly made submission was made about the application for the authority—the review date.'

461 Amendment of s 316 (Annual fee and return)

Section 316(1)(b), ‘for a mining or petroleum activity’—
omit.

462 Amendment of s 318A (Changing anniversary day)

Section 318A(1)(b), ‘for a mining or petroleum activity’—
omit.

463 Amendment of s 367 (Claims on financial assurances)

Section 367(8), definition *financial assurance*, paragraph
(a)—

omit, insert—

‘(a) financial assurance for an environmental authority
(chapter 5A activities) given under chapter 5A, part 7;
or’.

464 Replacement of s 426A (Environmental authority required for petroleum activity)

Section 426A—

omit, insert—

‘426A Environmental authority required for chapter 5A activity

‘A person must not carry out a chapter 5A activity unless the person holds, or is acting under, an environmental authority (chapter 5A activities) for that activity.

Maximum penalty—

- (a) for a level 1 chapter 5A activity—400 penalty units; or
- (b) for a level 2 chapter 5A activity—165 penalty units.’.

[s 465]

465 Amendment of s 430 (Contravention of condition of environmental authority)

- (1) Section 430(2), penalty—
omit, insert—
‘Maximum penalty—
(a) if the authority is a level 1 authority—2000 penalty units or 2 years imprisonment; or
(b) if the authority is a level 2 authority—300 penalty units.’.
- (2) Section 430(3), penalty—
omit, insert—
‘Maximum penalty—
(a) if the authority is a level 1 authority—1665 penalty units; or
(b) if the authority is a level 2 authority—250 penalty units.’.
- (3) Section 430—
insert—
- ‘(5) In this section—
level 1 authority means—
(a) an environmental authority (mining activities) for a level 1 mining project; or
(b) an environmental authority (chapter 5A activities) for a level 1 chapter 5A activity.
level 2 authority means—
(a) an environmental authority (mining activities) for a level 2 mining project; or
(b) an environmental authority (chapter 5A activities) for a level 2 chapter 5A activity.’.

466 Amendment of s 452 (Entry of place—general)

Section 452(1)(c)(i), ‘petroleum activity’—
omit, insert—
‘chapter 5A activity’.

467 Amendment of s 520 (Dissatisfied person)

- (1) Section 520(1)(d), ‘chapter 4A or 5’—
omit, insert—
‘chapter 5 or 5A’.
- (2) Section 520(2)(b), ‘chapter 4A’—
omit, insert—
‘chapter 5A’.

468 Amendment of s 540 (Required registers)

- (1) Section 540(1)(d)—
omit.
- (2) Section 540(1)—
insert—
‘(ea) in relation to chapter 5A, the following—
 - (i) environmental management plans;
 - (ii) transfers of environmental authorities (chapter 5A activities);
 - (iii) surrenders of environmental authorities (chapter 5A activities);
 - (iv) FRR assessment reports;’.
- (3) Section 540(1)(ca) to (s)—
renumber as section 540(1)(d) to (t).

[s 469]

469 Amendment of s 579 (Compensation)

Section 579(4)—

insert—

‘(d) the GHG storage Act, section 321.’.

470 Insertion of new ch 13, pt 11

Chapter 13—

insert—

**‘Part 11 Transitional provisions for
Greenhouse Gas Storage Act
2009**

‘Division 1 Preliminary

‘647 Definitions for div 1

‘assent means the date of assent of the GHG storage Act.

converted authorities see section 648(2)(b).

document includes an approved form, a notice, an environmental authority and subordinate legislation.

former, for a provision mentioned in this part, means the provision to which the reference relates is a provision of this Act as in force before assent.

Zerogen means Zerogen Pty Ltd (ACN 118 696 932).

‘Division 2 Provisions for Zerogen

‘648 New environmental authority for Zerogen’s converted GHG permits

‘(1) This section applies to the environmental authorities (petroleum activities) in force immediately before assent held by Zerogen (the *old authorities*) relating to its authorities to prospect under the P&G Act, numbered 830 and 835.

Note—

On the date of assent of the GHG storage Act the authorities to prospect became GHG permits under that Act. See the GHG storage Act, section 431.

‘(2) On assent, the old authorities—

- (a) cease to be environmental authorities for petroleum activities; and
- (b) are taken to be environmental authorities (chapter 5A activities) for greenhouse gas storage activities (the *converted authorities*).

‘(3) The converted authorities are non-code compliant, for a level 2 chapter 5A activity.

‘(4) The conditions of the converted authorities are all of the conditions of the old authorities that are relevant to the carrying out of greenhouse gas storage activities under the authority to prospect to which the converted authority relates.

‘(5) Chapter 5A applies to the converted authorities.

‘649 New environmental authority for Zerogen’s new GHG permit

‘(1) This section applies for the GHG permit that, under the GHG storage Act section 432, Zerogen is taken to have been granted on the date of assent of that Act.

‘(2) On assent, Zerogen is taken to have been granted an environmental authority (chapter 5A activities) for all greenhouse gas storage activities authorised under the GHG permit.

[s 470]

- ‘(3) The environmental authority is non-code compliant, for a level 2 chapter 5A activity.
- ‘(4) The conditions of the environmental authority are all of the conditions of the environmental authority (chapter 5A activities) No. PEN 200040607, granted on 22 October 2007 as in force on assent that are relevant to the carrying out of greenhouse gas storage activities under the GHG permit.
- ‘(5) Chapter 5A applies to the environmental authority.

‘Division 3 Provisions for replacement of former chapter 4A with chapter 5A

‘650 References to former chapter 4A

- ‘(1) A reference in an Act or a document to former chapter 4A is taken to be a reference to chapter 5A.
- ‘(2) A reference in an Act or a document to a particular provision of former chapter 4A (the *repealed provision*) is taken to be a reference to the provision of chapter 5A that corresponds, or substantially corresponds, to the repealed provision.

‘651 Environmental authorities (petroleum activities) other than converted authorities

- ‘(1) This section applies to an environmental authority (petroleum activities) in force under former chapter 4A immediately before assent, other than the converted authorities.
- ‘(2) On assent the environmental authority is taken to be an environmental authority (chapter 5A activities) granted under chapter 5A that is—
 - (a) of the same level; and
 - (b) for the same activities; and
 - (c) subject to the same conditions.
- ‘(3) Chapter 5A applies to the environmental authority.

**‘652 References to environmental authorities
(petroleum activities) and their levels**

- ‘(1) A reference in an Act or document to an environmental authority (petroleum activities) is taken to be a reference to an environmental authority (chapter 5A activities) for—
- (a) if the environmental authority is a converted authority—greenhouse gas storage activities; or
 - (b) otherwise—petroleum activities.
- ‘(2) A reference in an Act or document to a level 1 petroleum activity is taken to be to a level 1 chapter 5A activity.
- ‘(3) A reference in an Act or document to a level 2 petroleum activity is taken to be to a level 2 chapter 5A activity.

‘653 Migration of undecided applications

‘If, immediately before assent, an application has been made under former chapter 4A, but not decided, the application is taken to have been made under chapter 5A for the corresponding matter under that chapter.

‘654 Migration of decisions and documents

- ‘(1) This section applies to a decision or document in force immediately before assent given under former chapter 4A about a matter under that chapter.
- ‘(2) On assent, the decision or document is taken to have been given under chapter 5A about the corresponding matter under that chapter.
- ‘(3) However, subsection (2) does not change the time at which the decision or document was given.
- ‘(4) In this section—
- given*, for a decision or document, includes its making or submission.

[s 471]

‘655 Migration of outstanding appeals

‘If, immediately before assent, an appeal about a matter under former chapter 4A had not been decided, on assent the appeal is taken to be an appeal about the corresponding matter under chapter 5A.’.

471 Amendment of sch 2 (Original decisions)

- (1) Schedule 2, part 2, division 2—
omit.
- (2) Schedule 2, part 2, division 3—
renumber as schedule 2, part 2, division 2.
- (3) Schedule 2, part 2—
insert—

‘Division 3 Decisions under chapter 5A

Section	Description of decision
309X	refusal of application for environmental authority (chapter 5A activities) for level 2 chapter 5A activity
309Z	imposition of condition on environmental authority (chapter 5A activities) for level 2 chapter 5A activity, other than a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant
310J(1) and (2)	decision not to allow application to proceed
310J(3)(b)	fixing of new notice period or submission period
310M	grant or refusal of application for environmental authority (chapter 5A activities) for level 1 chapter 5A activity

Section	Description of decision
310O	imposition of condition on environmental authority (chapter 5A activities) for level 1 chapter 5A activity, other than a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant
310W(2)	decision to make public notice requirement for amendment application
310Y	refusal of amendment application
310Y(2)	decision to grant an amendment application subject to the applicant's written agreement to the administering authority amending the environmental authority (chapter 5A activities) in a stated way
311H	refusal of transfer
311P	refusal of surrender
311T(1)	decision to make GHG residual risks requirement
311Y(2)	decision to give rehabilitation direction
312B(2)	decision to give surrender notice
312B(2)	fixing of period for compliance with surrender notice
312J(1)	proposed action decision
312O(2)	decision to require the giving of financial assurance
312P	decision to require the giving of financial assurance'.

472 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *amendment application, applicants, application notice, code compliance condition, code compliant authority, correction, environmental authority (petroleum activities), environmental management plan, final rehabilitation report, financial assurance, FRR assessment*

[s 472]

report, joint applicants, joint application, level 1 petroleum activity, level 2 petroleum activity, non-code compliant authority, P&G Act, person, petroleum activity, petroleum authority, petroleum legislation, petroleum project, properly made submission, proposed action, proposed action decision, public notice requirement, relevant petroleum activity, relevant petroleum authority, relevant place, submission period, surrender application, surrender notice and transfer application—

omit.

(2) Schedule 4—

insert—

‘amendment application—

(a) for chapter 5—see section 238(1); or

(b) for chapter 5A—see section 310S.

applicants—

(a) for chapter 5, part 9—see section 260(1)(b); or

(b) for chapter 5A, part 4—see section 311D(b).

application notice—

(a) for chapter 5, part 6—see section 211; or

(b) for chapter 5A, part 2, division 4—see section 310G(1).

chapter 5A activity see section 309A(2).

chapter 5A activity project see section 309G.

code compliance condition, for chapter 5A, see section 309T(1).

code compliant authority—

(a) for chapter 5—see section 148(3); or

(b) for chapter 5A—see section 309B(2).

correction—

(a) for chapter 5, part 12—see section 290; or

(b) for chapter 5A, part 6—see section 312D.

environmental authority (chapter 5A activities) see section 309A(3).

environmental management plan—

(a) for chapter 3, part 1—see section 39; or

(b) for chapter 5—

(i) for, or for an application for, an environmental authority (exploration) or environmental authority (mineral development)—means a submitted EM plan under section 189; or

(ii) for, or for an application for, an environmental authority (mining lease)—means a submitted EM plan under section 203; or

(iii) for, or for an application for, an environmental authority (prospecting) or an environmental authority (mining claim)—means an EM plan required under section 163B; or

(c) for chapter 5A—means an environmental management plan under section 310D.

final rehabilitation report means—

(a) for chapter 5—a final rehabilitation report prepared under chapter 5, part 10, division 2, subdivision 2; or

(b) for chapter 5A—a final rehabilitation report prepared under chapter 5A, part 5, division 2.

financial assurance, for an environmental authority (chapter 5A activities) means financial assurance for the authority given under chapter 5A, part 7.

FRR assessment report—

(a) for chapter 5—see section 276; or

(b) for chapter 5A—see section 311O.

GHG means greenhouse gas.

[s 472]

GHG residual risks requirement see section 311T(2).

GHG storage Act means the *Greenhouse Gas Storage Act 2009*.

GHG well means a well that is, or has been, a GHG well under the GHG storage Act.

greenhouse gas storage activities means—

- (a) activities that, under the GHG storage Act, are authorised activities for a GHG authority; or
- (b) rehabilitating or remediating environmental harm because of an activity mentioned in paragraph (a); or
- (c) action taken to prevent environmental harm because of an activity mentioned in paragraph (a) or (b); or
- (d) activities required under a condition of an environmental authority for activities mentioned in paragraph (a), (b) or (c); or
- (e) activities required under a condition of an environmental authority for activities mentioned in paragraph (a), (b) or (c) that has ended or ceased to have effect, if the condition—
 - (i) continues to apply after the authority has ended or ceased to have effect; and
 - (ii) has not been complied with.

Note—

For conditions that continue to apply after the authority has ended, see sections 309Z and 310O (Conditions that may and must be imposed).

joint applicants—

- (a) for chapter 5—see section 157; or
- (b) for chapter 5A—see section 309L.

joint application for—

- (a) for chapter 5—see section 158(1); or

(b) for chapter 5A—see section 309M(1).

level 1 chapter 5A activity means an activity prescribed by a regulation under section 309C as a level 1 chapter 5A activity.

level 2 chapter 5A activity means an activity prescribed by a regulation under section 309C as a level 2 chapter 5A activity.

non-code compliant authority—

(a) for chapter 5—see section 148(5); or

(b) for chapter 5A—see section 309B(4).

P&G Act means the *Petroleum and Gas (Production and Safety) Act 2004*.

person—

(a) for chapter 3, part 1—see section 39; or

(b) for chapter 5A, part 2—see section 309H.

petroleum activities means—

(a) activities that, under the *Petroleum Act 1923*, are authorised activities for a 1923 Act petroleum tenure under that Act; or

(b) activities that, under the P&G Act, are authorised activities for a petroleum authority under that Act; or

(c) exploring for, exploiting or conveying petroleum resources under a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*; or

(d) rehabilitating or remediating environmental harm because of activities mentioned in paragraphs (a) to (c); or

(e) actions taken to prevent environmental harm because of activities mentioned in paragraphs (a) to (d); or

[s 472]

- (f) activities required under a condition of an environmental authority for activities mentioned in paragraphs (a) to (e); or
- (g) activities required under a condition of an environmental authority mentioned in paragraphs (a) to (e) that has ended or ceased to have effect, if the condition—
 - (i) continues to apply after the authority has ended or ceased to have effect; and
 - (ii) has not been complied with.

Note—

For conditions that continue to apply after the authority has ended, see sections 309Z and 310O (Conditions that may and must be imposed).

properly made submission—

- (a) for chapter 3—see section 55(2); or
- (b) for chapter 5A, part 2, division 4—see section 310L(2).

proposed action—

- (a) for chapter 4, part 4—see section 73J(1)(a); or
- (b) for chapter 5, part 12, division 2—see section 295(1)(a);
or
- (c) for chapter 5A, part 6, division 2—see section 312H(1)(a).

proposed action decision—

- (a) for chapter 4, part 4—see section 73L(2); or
- (b) for chapter 5—see section 297(2); or
- (c) for chapter 5A, part 6, division 2—see section 312J(2).

public notice requirement, for chapter 5A, see section 310W(2).

relevant chapter 5A activity see section 309F.

relevant place, for chapter 5A, part 2, see section 309H.

relevant resource authority see section 309D.

resource legislation see section 309E.

submission period—

- (a) for chapter 3, part 1—see section 39; or
- (b) for chapter 5A, part 2—see section 309H.

surrender application—

- (a) for chapter 5—see section 268(1)(a); or
- (b) for chapter 5A—see section 311K(1)(a).

surrender notice—

- (a) for chapter 5—see section 271(2); or
- (b) for chapter 5A—see section 312B(2).

transfer application—

- (a) for chapter 5—see section 259(2)(a); or
- (b) for chapter 5A—see section 311C(2)(a).’.

- (3) Schedule 4, definition *chapter 4 activity*, ‘petroleum activity’—

omit, insert—

‘chapter 5A activity’.

- (4) Schedule 4, definition *environmental authority*, ‘chapter 4A or 5’—

omit, insert—

‘chapter 5 or 5A’.

- (5) Schedule 4, definition *rehabilitation direction*, after ‘section 278A’—

insert—

‘or 311Y’.

[s 473]

Part 8 **Amendment of Fire and Rescue Service Act 1990**

473 Act amended in pt 8

This part amends the *Fire and Rescue Service Act 1990*.

474 Amendment of s 95 (Application of part)

Section 95(1)(c), from 'to which'—

omit, insert—

'to which any of the following Acts apply—

- *Petroleum Act 1923*
- *Petroleum and Gas (Production and Safety) Act 2004*
- *Greenhouse Gas Storage Act 2009*.'

Part 9 **Amendment of Foreign Ownership of Land Register Act 1988**

475 Act amended in pt 9

This part amends the *Foreign Ownership of Land Register Act 1988*.

476 Amendment of s 4 (Interpretation)

- (1) Section 4(1), definition *interest in land*, paragraph (o), 'estate or interest in'—

omit, insert—

'authority, however called, relating to'.

-
- (2) Section 4(1), definition *interest in land*, paragraph (o), after ‘*Coal Mining Safety and Health Act 1999*,’—
insert—
‘the *Greenhouse Gas Storage Act 2009*,’.

Part 10 Amendment of Forestry Act 1959

477 Act amended in pt 10

This part amends the *Forestry Act 1959*.

478 Amendment of s 37 (Mining leases over State forest, timber reserve or forest entitlement area)

- (1) Section 37, heading, ‘Mining leases’—
omit, insert—
‘**Particular authorities**’.
- (2) Section 37(1), after ‘Mining Acts’—
insert—
‘or a GHG authority under the GHG storage Act’.
- (3) Section 37, subsection headings—
omit.
- (4) Section 37(3) and (4), after ‘Mining Acts’—
insert—
‘and the GHG Storage Act’.

[s 479]

479 Amendment of s 39 (Interfering with forest products on State forests etc.)

Section 39(1), ‘or the Mining Acts’—

omit, insert—

‘, the Mining Acts or the GHG Storage Act’.

480 Amendment of s 44 (Construction of other Acts etc.)

Section 44(2), after ‘Mining Acts’—

insert—

‘or the GHG Storage Act’.

481 Amendment of s 45 (Forest products etc. which are the property of the Crown)

Section 45(1)(f), after ‘Mining Acts’—

insert—

‘or the GHG Storage Act’.

482 Amendment of s 47 (Sale of forests products on Crown holdings or mining leases etc.)

Section 47(b), after ‘Mining Acts’—

insert—

‘or the GHG Storage Act’.

483 Amendment of s 53 (Interference with forest products on Crown holdings and mining leases)

(1) Section 53, heading, ‘mining leases’—

omit, insert—

‘**particular entitlements**’.

(2) Section 53(1)(c), after ‘Mining Acts’—

insert—

‘or the GHG Storage Act’

(3) Section 53(1), ‘the Mining Acts or another Act’—

omit, insert—

‘the Mining Acts, the GHG storage Act or another Act’.

484 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

‘**GHG storage Act** means the *Greenhouse Gas Storage Act 2009*.’.

Part 11 Amendment of Geothermal Exploration Act 2004

485 Act amended in pt 11

This part amends the *Geothermal Exploration Act 2004*.

486 Insertion of new s 7A

After section 7—

insert—

‘7A Relationship with Greenhouse Gas Storage Act 2009

‘The relationship between this Act and the *Greenhouse Gas Storage Act 2009* (the **GHG storage Act**) and authorities under them is provided for under—

[s 487]

- (a) chapter 4, part 5; and
- (b) chapter 4, parts 2 to 8 of the GHG storage Act.

487 Amendment of s 12 (Geothermal energy reservation in land grants)

(1) Section 12(3)(b)—

omit, insert—

‘(b) the exclusive right to do the following in relation to the land—

- (i) to enter and carry out any geothermal energy activity;
- (ii) authorise, under this Act, persons to carry out any geothermal energy activity;
- (iii) regulate, under this Act, geothermal energy activities.’.

(2) Section 12(4)—

insert—

‘***geothermal energy activity*** means geothermal exploration or any activity related to the extraction or production of geothermal energy.’.

488 Insertion of new s 12A

After section 12—

insert—

‘12A Provision for entry by State to carry out geothermal energy activity

- ‘(1) If the State proposes to exercise a right under section 12(3)(b)(i), the right may be exercised by anyone authorised by the chief executive.

- ‘(2) However, a person authorised under subsection (1) may enter the land only if the person has given the owner of the land at least 5 business days notice of the proposed entry.
- ‘(3) To remove any doubt, it is declared that subsection (2) does not apply to an inspector or an authorised officer under the *Petroleum and Gas (Production and Safety) Act 2004* performing functions under that Act relating to this Act.’.

489 Amendment of s 13 (Prohibition on geothermal exploration without permit)

Section 13—

insert—

- ‘(c) the person—
- (i) is carrying out the geothermal exploration for the State; and
 - (ii) has, under section 12A, been authorised for that purpose; and
 - (iii) is acting within the scope of that authority.’.

490 Insertion of new ch 4, pt 5

Chapter 4—

insert—

‘Part 5 Provisions for GHG authorities

‘Division 1 Preliminary

‘83A Relationship with other provisions

- ‘(1) Requirements or restrictions under this part about a matter are in addition to any relevant requirements or restrictions under another provision of this Act.

[s 490]

‘(2) This part does not otherwise limit or affect relevant requirements or restrictions under another provision of this Act.

‘83B What is an *overlapping GHG authority*

‘An *overlapping GHG authority*, for a permit or proposed permit, is a GHG authority, all or part of the area of which under the GHG storage Act is in the area of the permit or proposed permit.

‘83C General provision about permits for land subject to GHG authority

‘Subject to the other provisions of this chapter, the GHG storage Act or a GHG authority does not limit or otherwise affect—

- (a) the power under this Act to grant a permit; or
- (b) the carrying out of authorised activities for a permit.

‘Division 2 Restrictions on authorised activities

‘83D Permit overlapping with GHG lease

‘(1) This section applies if—

- (a) land in the area of a permit is in the area of a GHG lease; and
- (b) the permit and the GHG lease are not held by the same person.

‘(2) An authorised activity for the permit may be carried out on the land only if—

- (a) the GHG lease holder has not in the way required under subsection (3), objected to the carrying out of the activity; or

-
- (b) if an objection under paragraph (a) has been made—the Minister has decided under section 83F that the authorised activity may be carried out.

Note—

For notice of authorised activities, see section 83H.

- ‘(3) The objection must be written, given to the GHG authority holder and lodged at the relevant departmental office.

‘83E Overlaps with other GHG authorities

- ‘(1) This section applies if land is in the area of a permit and a GHG authority other than a GHG lease.
- ‘(2) An authorised activity for the permit can not be carried out on the land if—
- (a) carrying it out adversely affects the carrying out of an authorised activity for the GHG authority; and
 - (b) the authorised activity for the GHG authority has already started.

‘83F Resolving disputes about the restrictions

- ‘(1) This section applies if under section 83D, a GHG lease holder has objected to the carrying out of an authorised activity by a permit holder.
- ‘(2) This section also applies if—
- (a) section 83E applies to a permit holder and a GHG authority holder; and
 - (b) there is a dispute between the holders about whether an authorised activity for the authority to prospect can be carried out under that section.
- ‘(3) Either of the parties may by a notice in the approved form ask the Minister to decide—
- (a) for section 83D—whether the authorised activity may be carried out under that section; or

[s 490]

- (b) for section 83E—whether the authorised activity may be carried out under that section.
- ‘(4) Before making the decision, the Minister must give the parties a reasonable opportunity to make written submissions about the request within a reasonable period.
- ‘(5) The Minister must after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.
- ‘(6) The Minister’s decision binds the parties.
- ‘(7) If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.
- ‘(8) In this section—
parties means—
 - (a) for a request about a matter mentioned in subsection (1)—the permit holder and the GHG lease holder; or
 - (b) for a request about a matter mentioned in subsection (2)—the permit holder and the GHG authority holder.

‘Division 3 Additional conditions

‘83G **Notice by geothermal exploration permit holder to particular GHG authority holders or applicants**

- ‘(1) This section applies if—
 - (a) a permit under this Act is granted; and
 - (b) land in the permit’s area is in the area of, or in a proposed area under an application for, a GHG authority other than a GHG lease.
- ‘(2) It is a condition of the permit under this Act that its holder must within 20 business days after the holder receives notice of the grant of the permit under this Act give the GHG authority holder or the applicant notice stating—

-
- (a) that the permit under this Act has been granted; and
 - (b) the permit holder's name; and
 - (c) the term of the permit.

'83H Condition to notify particular GHG authority holders of proposed start of any authorised activity

- '(1) This section applies to a permit holder if there is either of the following (the *other authority*) for the permit—
 - (a) an overlapping GHG authority;
 - (b) a GHG authority that shares a common boundary with the permit.
- '(2) Before the permit holder first starts any authorised activity in the other authority's area, the permit holder must give the other authority holder at least 30 business days notice of the activity.
- '(3) A notice under subsection (2) must state—
 - (a) when the authorised activity is to start; and
 - (b) where the authorised activity is to be carried out; and
 - (c) the nature of the activity.
- '(4) Before changing the land on which the authorised activity is being carried out, the permit holder must give the other authority holder at least 30 business days notice stating the land on which the activity is to be carried out.
- '(5) Compliance with this section is a condition of the permit.

'Division 4 Additional provisions for safety management plans

[s 490]

‘83I Requirements for consultation with particular GHG tenure holders

- ‘(1) This section applies if—
- (a) a person (an *operator*) proposes to be an operator of operating plant in the area of a permit; and
 - (b) activities (*relevant activities*) carried out or proposed to be carried out at the plant may adversely affect the safe and efficient carrying out of GHG storage activities under an overlapping GHG authority for the permit; and
 - (c) the overlapping GHG authority is a GHG tenure.
- ‘(2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the GHG tenure holder about relevant activities for the plant.
- ‘(3) If there is more than 1 operator, the permit holder may coordinate the consultation between the operators and the GHG tenure holder.
- ‘(4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—
- (a) the operator gives the GHG tenure holder a copy of the relevant parts of the operator’s proposed safety management plan for any relevant operating plant the operator proposes to operate; and
 - (b) the GHG tenure holder has not within 30 days after the giving of the copy made any proposal to the operator about provisions for the plan.
- ‘(5) An operator must before making or remaking a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the plan proposed by the GHG tenure holder that relate to relevant activities for the plant.
- ‘(6) However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant permit holder.

- ‘(7) If an operator makes a safety management plan for relevant operating plant that includes provisions proposed by the GHG tenure holder, the operator must—
- (a) give the GHG tenure holder a copy; and
 - (b) lodge at the relevant departmental office a notice stating any provisions proposed under subsection (5) and whether they were included in the plan.
- ‘(8) In this section—
- remaking*, a safety management plan, includes an amendment or remaking of the plan of a type required under the *Petroleum and Gas (Production and Safety) Act 2004*, section 678.

‘83J Application of P&G Act provisions for resolving disputes about reasonableness of proposed provision

- ‘(1) This section applies if a dispute exists between an operator to which section 83I applies and a GHG tenure holder about the reasonableness of a provision proposed by the GHG tenure holder for the operator’s proposed safety management plan.
- ‘(2) The P&G Act, section 387, chapter 12 and schedule 1 apply to the dispute as if it were a dispute to which that section applies.

Editor’s note—

P&G Act, chapter 12 and schedule 1 (Reviews and appeals)

- ‘(3) In this section—
- P&G Act* means the *Petroleum and Gas (Production and Safety) Act 2004*.

Note—

For the application of the provisions of the P&G Act about safety management plans to permits, see section 132A.

‘Division 5 Restriction on power to amend permit if overlapping GHG authority

[s 491]

‘83K Interests of overlapping GHG authority holder to be considered

‘If for a permit, there is an overlapping GHG authority that is a GHG tenure, the permit may be amended under section 72 only if the interests of the GHG tenure holder have been considered.’.

491 Insertion of new s 136A

After section 136—

insert—

‘136A Protection from liability for particular persons

- ‘(1) A person as follows (a *designated person*) does not incur civil liability for an act done or omission made honestly and without negligence under this Act—
- (a) the Minister;
 - (b) a public service officer or public service employee;
 - (c) a person if—
 - (i) the person has, under section 12A, been authorised to carry out an activity; and
 - (ii) the act or omission happened while the person was acting within the scope of that authority;
 - (d) a permit holder given a direction under this Act who is complying with the direction.
- (2) For subsection (1)(b), it does not matter what is the form of appointment or employment of the person.
- (3) If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.
- (4) In this section—
- civil liability* includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.’.

492 Amendment of schedule (Dictionary)

- (1) Schedule, definition *area*—

omit.

- (2) Schedule—

insert—

'area—

- (a) of a geothermal exploration permit, means the land subject to the permit, as recorded in the instrument for the permit kept in the geothermal register; or
- (b) of a GHG authority, means the land to which it is subject as recorded in the GHG register under the GHG storage Act.

authorised activity—

- (a) for a geothermal exploration permit, means an activity that its holder is under this Act and the permit, entitled to carry out in relation to the permit; or
- (b) for a GHG authority, means an activity that its holder is under the GHG storage Act and the GHG authority, entitled to carry out in relation to the GHG authority.

GHG means greenhouse gas.

GHG authority see the GHG storage Act, section 18(3).

GHG lease see the GHG storage Act, section 18(1)(b).

GHG storage Act see section 7A.

GHG tenure see the GHG storage Act, section 18(2).

overlapping GHG authority, for a geothermal exploration permit, see section 83B.

relevant departmental office, for an application or document that is required to be made, given or lodged under this Act, means—

[s 493]

- (a) the office of the department at which the relevant approved form provides that the application or document must be made, given or lodged; or
- (b) if the relevant approved form does not make provision as mentioned in paragraph (a) or if there is no relevant approved form—the office of the department as stated in a gazette notice by the chief executive; or
- (c) if paragraph (b) applies and no office is gazetted as mentioned in paragraph (b)—the office of the chief executive.’

Part 12 Amendment of Integrated Planning Act 1997

493 Act amended in pt 12

This part amends the *Integrated Planning Act 1997*.

494 Amendment of s 1.3.5 (Definitions for terms used in development)

Section 1.3.5(1), definition, *material change of use*, paragraph (b), ‘petroleum activity’—

omit, insert—

‘chapter 5A activity’.

495 Amendment of s 5.1.7 (Infrastructure charges)

Section 5.1.7(4), ‘or the *Petroleum and Gas (Production and Safety) Act 2004*’—

omit, insert—

‘, the *Petroleum and Gas (Production and Safety) Act 2004* or the *Greenhouse Gas Storage Act 2009*’.

496 Amendment of s 5.1.17 (Regulated infrastructure charges)

Section 5.1.17(2), ‘or the *Petroleum and Gas (Production and Safety) Act 2004*’—

omit, insert—

‘, the *Petroleum and Gas (Production and Safety) Act 2004* or the *Greenhouse Gas Storage Act 2009*’.

497 Amendment of sch 8 (Assessable development and self-assessable development)

(1) Schedule 8, part 1, table 2, item 1, paragraph (b)—

omit, insert—

‘(b) a chapter 5A activity; or’.

(2) Schedule 8, part 1, table 2, items 5, paragraph (d), 6 and 7 and table 5, item 4, ‘petroleum activity’—

omit, insert—

‘chapter 5A activity’.

(3) Schedule 8, part 2, table 5, item 1, paragraph (c)—

omit, insert—

‘(c) a chapter 5A activity.’.

498 Amendment of sch 9 (Development that is exempt from assessment against a planning scheme)

(1) Schedule 9, table 5, item 3, ‘section 75’—

omit, insert—

‘schedule 4’.

(2) Schedule 9, table 5—

[s 499]

insert—

‘GHG storage activities	
3B	Any aspect of development for a GHG storage activity carried out under a GHG authority under the <i>Greenhouse Gas Storage Act 2009</i> .’.

499 Amendment of sch 10 (Dictionary)

- (1) Schedule 10, definition, *petroleum activity*—
omit.
- (2) Schedule 10—
insert—
‘chapter 5A activity see the *Environmental Protection Act 1994* section 309A(2).’.
- (3) Schedule 10, definition *specified activity*, paragraph (c), ‘petroleum activity’—
omit, insert—
‘chapter 5A activity’.

Part 13 Amendment of Land Act 1994

500 Act amended in pt 13

This part amends the *Land Act 1994*.

501 Amendment of s 20 (Dealing with mining interests)

- (1) Section 20, heading, after ‘mining interests’—
insert—
‘or **GHG authorities**’.

-
- (2) Section 20, after ‘mining interest’—
insert—
‘or GHG authority’.
- (3) Section 20(2)(b), ‘or the *Petroleum and Gas (Production and Safety) Act 2004*’—
omit, insert—
‘, the *Petroleum and Gas (Production and Safety) Act 2004* or the *Greenhouse Gas Storage Act 2009*’.
- (4) Section 20(3)—
insert—
‘**GHG authority** means a GHG authority under the *Greenhouse Gas Storage Act 2009*.’.

502 Amendment of s 43 (Only Parliament may delete land from or cancel an existing deed of grant in trust)

Section 43(8), definition *relevant purpose*—

insert—

- ‘(c) the *Greenhouse Gas Storage Act 2009*.’.

Part 14 Amendment of Land Protection (Pest and Stock Route Management) Act 2002

503 Act amended in pt 14

This part amends the *Land Protection (Pest and Stock Route Management) Act 2002*.

[s 504]

504 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definition *owner*, paragraph (a)(v) to (vii)—
renumber as paragraph (a)(vi) to (viii).

(2) Schedule 3, definition *owner*, paragraph (a)—
insert—

‘(v) for land subject to a GHG injection and storage
lease under the *Greenhouse Gas Storage Act
2009*—the holder of the lease; or’.

**Part 15 Amendment of Land Title Act
1994**

505 Act amended in pt 15

This part amends the *Land Title Act 1994*.

506 Amendment of s 185 (Exceptions to s 184)

(1) Section 185(h), footnote—
omit.

(2) Section 185(1)—
insert—

‘(i) the interest of a GHG authority holder under the
Greenhouse Gas Storage Act 2009 under an access
agreement under that Act that—

(i) was made before the registered proprietor became
the registered proprietor of the lot; and

(ii) under that Act, binds the registered proprietor.

Note—

For when an access agreement mentioned in paragraph (h) or (i) binds the registered proprietor, see the *Petroleum and Gas (Production and Safety) Act 2004*, sections 507 and 509 and the *Greenhouse Gas Storage Act 2009* sections 292 and 294’.

Part 16 Amendment of Local Government Act 1993

507 Act amended in pt 16

This part amends the *Local Government Act 1993*.

508 Amendment of s 4 (Meaning of *owner* of land)

Section 4(1)(e)—

omit, insert—

‘(e) a lessee under any of the following Acts—

- *Petroleum Act 1923*
- *Petroleum and Gas (Production and Safety) Act 2004*
- *Greenhouse Gas Storage Act 2009*; or’.

Part 17 Amendment of Mineral Resources Act 1989

509 Act amended in pt 17

This part amends the *Mineral Resources Act 1989*.

[s 510]

510 Insertion of new s 3B

After section 3A—

insert—

‘3B Relationship with Greenhouse Gas Storage Act 2009

‘The relationship between this Act and the *Greenhouse Gas Storage Act 2009* (the *GHG storage Act*) and authorities under them is provided for under—

- (a) part 7AAC; and
- (b) the GHG storage Act, chapter 4.’.

511 Insertion of new pt 7AAC

After part 7AAB—

insert—

‘Part 7AAC Provisions for GHG authorities

‘Division 1 Preliminary

‘318ELAM Relationship with pts 3 to 7AAB

- ‘(1) Requirements and restrictions under this part apply as well as any relevant requirements and restrictions under parts 3 to 7AAB.
- ‘(2) If this part imposes a requirement for or a restriction on the granting of a mining lease, the mining lease can not be granted if the restriction applies or if the requirement has not been complied with.
- ‘(3) If a provision of this part conflicts with a provision of any of parts 3 to 7AAB the provision of this part prevails to the extent of the inconsistency.
- ‘(4) This part does not otherwise limit or affect the requirements of parts 3 to 7AAB.

-
- ‘(5) Subsection (6) applies if this part imposes a requirement for or a restriction on the carrying out of an authorised activity for a mining tenement.
 - ‘(6) Despite parts 3 and 7, the activity is not an authorised activity for the mining tenement while the restriction applies or if the requirement has not been complied with.

‘318ELAN What is an *overlapping GHG authority*

- ‘(1) An *overlapping GHG authority*, for a mining tenement, is any GHG authority all or part of the area of which is in the mining tenement’s area.
- ‘(2) An *overlapping GHG authority*, for a proposed mining tenement, is any GHG authority all or part of the area of which will, if the proposed mining tenement is granted be in the mining tenement’s area.

‘318ELAO What is the *GHG public interest*

‘The GHG public interest is a consideration of each of the following—

- (a) government policy;
- (b) environmental impacts;
- (c) employment creation;
- (d) social impacts;
- (e) the overall economic benefit for the State or a part of the State in the short and long term;
- (f) impacts on aesthetic, amenity or cultural values.

‘318ELAP General provision about mining tenements for land subject to GHG authority

‘Subject to the other provisions of this part and parts 3 to 7AAB, the GHG storage Act or a GHG authority does not limit or otherwise affect—

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- (a) the power under this Act to grant a mining tenement over land in the area of an overlapping GHG authority for the proposed mining tenement; or
- (b) the carrying out of authorised activities for a mining tenement.

‘Division 2 Obtaining mining lease if overlapping GHG tenure

‘Subdivision 1 Preliminary

‘318ELAQ Application of div 2

‘This division applies if—

- (a) a person (the *applicant*) wishes to make a mining lease application; and
- (b) there is an overlapping GHG authority for the proposed mining lease; and
- (c) the GHG authority is a GHG tenure.

‘Subdivision 2 Requirements for application

‘318ELAR Requirements for making application

‘(1) The mining lease application must include—

- (a) a statement that complies with section 318ELAS (a *GHG statement*); and
- (b) other information that addresses the matters mentioned in subsection (2) (the *GHG assessment criteria*).

Note—

Part 7AA division 9 also imposes development plan requirements for a proposed coal mining lease or oil shale mining lease.

-
- ‘(2) The GHG assessment criteria are—
- (a) the potential for the parties to make a GHG coordination arrangement for the proposed mining lease; and
 - (b) the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed mining lease and the GHG tenure;
 - (c) the GHG public interest.

‘318ELAS Content requirements for GHG statement

‘The GHG statement must assess—

- (a) the likely effect of proposed activities under the proposed mining lease on the future carrying out of GHG storage activities under the GHG tenure; and
- (b) the technical and commercial feasibility of coordinating the proposed activities and the future carrying out of the GHG storage activities.

‘Subdivision 3 Consultation provisions

‘318ELAT Applicant’s information obligation

- ‘(1) The applicant must within 10 business days after making the mining lease application give the GHG tenure holder a copy of the application
- ‘(2) If the Minister is reasonably satisfied the applicant has not complied with subsection (1), the Minister may refuse the mining lease application.

‘318ELAU Submissions by GHG tenure holder

- ‘(1) The GHG tenure holder may lodge submissions about the mining lease application (*holder submissions*) at the relevant departmental office.

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- ‘(2) However, holder submissions may be lodged only within 4 months after the holder is given a copy of the application.
- ‘(3) Holder submissions may do all or any of the following—
 - (a) state that the holder does not object to the granting of the proposed mining lease;
 - (b) if the GHG tenure is a GHG permit—
 - (i) state that the holder does not wish any priority (*overlapping authority priority*) for GHG stream storage under any future GHG lease that may arise from the GHG permit; and
 - (ii) include a proposal by the GHG tenure holder for GHG stream storage under any future GHG lease that may arise from the GHG permit;
 - (c) include information about authorised activities carried out under the GHG tenure;
 - (d) include information relevant to the GHG assessment criteria.
- ‘(4) The holder must give the applicant a copy of the holder submissions.

‘Subdivision 4 Resource management decision if overlapping GHG permit

‘318ELAV Application of sdiv 4

- ‘(1) This subdivision applies if—
 - (a) the GHG tenure is a GHG permit; and
 - (b) the GHG permit holder has lodged holder submissions within 4 months after the holder was given a copy of the application; and
 - (c) the submissions state that the holder wishes overlapping authority priority.

- ‘(2) However, this subdivision does not apply if under the GHG storage Act, chapter 4, overlapping authority priority has been given for any of the relevant land.

Note—

If this subdivision does not apply, the mining lease application proceeds immediately to a decision under part 7 as affected by subdivision 7.

‘318ELAW Operation of sdiv 4

‘This subdivision provides for the Minister to make a decision (the *resource management decision*) about whether to—

- (a) recommend under section 271, the grant of the mining lease; or
- (b) give any overlapping authority priority for all or part of the relevant land; or
- (c) not to recommend the granting of the mining lease and not to give any overlapping authority priority for all or part of the relevant land.

‘318ELAX Criteria for decision

‘The Minister must consider the following in making the resource management decision—

- (a) the GHG statement;
- (b) the GHG assessment criteria;
- (c) the holder submissions;
- (d) the GHG public interest.

‘318ELAY Restrictions on giving overlapping authority priority

‘Overlapping authority priority may be given only if the Minister considers—

- (a) either—

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- (i) it is unlikely that the applicant and the GHG permit holder will enter into a GHG coordination arrangement; or
 - (ii) a GHG coordination arrangement for the proposed mining lease is not commercially or technically feasible; and
- (b) the GHG public interest would be best served by not granting a mining lease to the applicant first.

‘Subdivision 5 Process if resource management decision is to give overlapping authority priority

‘318ELAZ Application of sdiv 5

‘This subdivision applies only if under subdivision 4, a resource management decision is required and that decision was to give overlapping authority priority for all or part of the relevant land.

‘318ELBA Notice to applicant and GHG permit holder

- ‘(1) The chief executive must give the applicant and the GHG permit holder written notice of the resource management decision.
- ‘(2) The notice must invite the GHG permit holder to, within 6 months after the giving of the notice (the *overlapping GHG lease application period*), apply for a GHG lease—
 - (a) if the priority is for all of the land—for all of the land; or
 - (b) if the priority is for part of the land—for that part.

‘318ELBB GHG lease application for all of the land

- ‘(1) This section applies if the priority is for all of the land and within the overlapping GHG lease application period the

GHG permit holder applies for a GHG lease for all of the land.

- ‘(2) A further step can not be taken to decide the mining lease application until after the GHG lease application has been decided.

Note—

The GHG storage Act, chapter 4, part 5 provides for refusal of the GHG lease application if it is not pursued in a timely manner.

- ‘(3) If the decision on the GHG lease application is to grant a GHG lease for all of the land, the mining lease application is taken to have lapsed.

‘318ELBC GHG lease application for part of the land

- ‘(1) This section applies if the GHG permit holder applies for a GHG lease for part of the land within the overlapping GHG lease application period.
- ‘(2) The person who made the mining lease application may amend it so that a mining lease is only sought for all or part of the rest of the land.
- ‘(3) Unless the amendment is made, a further step can not be taken to decide the mining lease application until after the GHG lease application has been decided.
- ‘(4) If—
- (a) the amendment has not been made; and
 - (b) the decision on the GHG lease application is to grant a GHG lease for part of the land;

the person who made the mining lease application may amend it so that a mining lease is only sought for all or part of the rest of the land.

Note—

If the mining lease application is not amended, see section 318ELBG (Application may be refused if no reasonable prospects of GHG coordination arrangement).

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‘318ELBD No GHG lease application

‘If the GHG permit holder does not apply for a GHG lease for any of the land within the overlapping GHG lease application period, the mining lease application may be decided.

‘Subdivision 6 Resource management decision not to recommend grant and not to give priority

‘318ELBE Lapsing of application

‘The mining lease application is taken to have lapsed if—

- (a) under subdivision 4, a resource management decision is required; and
- (b) that decision was not to recommend the granting of the mining lease and not to give any overlapping authority priority for any of the relevant land.

‘Subdivision 7 Deciding application

‘318ELBF Application of sdiv 7

‘This subdivision applies only if—

- (a) the GHG tenure holder has not lodged holder submissions within 4 months after the holder was given a copy of the application (the *submission period*) or at all; or
- (b) the GHG tenure holder has lodged holder submissions within the submission period stating that the holder does not wish any overlapping authority priority; or

- (c) under subdivision 4, a resource management decision is required and—
 - (i) the resource management decision was not to give overlapping authority priority for any of the relevant land; or
 - (ii) the resource management decision was to give overlapping authority priority for all or part of the relevant land and after subdivision 5 has been complied with the Minister decides to recommend the granting of a mining lease for the land.

‘318ELBG Application may be refused if no reasonable prospects of future GHG coordination arrangement

- ‘(1) This section applies if—
 - (a) the Minister is satisfied the applicant and the GHG tenure holder have made reasonable attempts to reach a proposed GHG coordination arrangement (a *relevant arrangement*); and
 - (b) either—
 - (i) the GHG tenure holder has lodged a written notice at the relevant departmental office stating there are no reasonable prospects of a relevant arrangement being made; or
 - (ii) a relevant arrangement has not been lodged for approval by the Minister and the Minister considers the applicant and the GHG tenure holder have had a reasonable opportunity to make a relevant arrangement.
- ‘(2) The Minister may decide to refuse the application without making any recommendation to the Governor in Council about the application.

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‘318ELBH Additional criteria for deciding provisions of mining lease

- ‘(1) In making a recommendation as follows, regard must be had to the prescribed criteria—
- (a) recommending conditions of the mining lease, to be determined under section 276(1)(n); and
 - (b) recommending, under section 284, the term of the mining lease.

- ‘(2) In this section—

prescribed criteria means all of the following—

- (a) the GHG statement;
- (b) the GHG assessment criteria;
- (c) any holder submissions;
- (d) the affect of the mining lease on the safe and efficient use of resources under the GHG tenure;
- (e) if the GHG tenure is a GHG permit—the affect of the mining lease on the safe and efficient carrying out of GHG storage activities under any future GHG lease that may arise from the permit.

‘318ELBI Publication of outcome of application

- ‘(1) After the Governor in Council decides whether or not to grant the mining lease, the chief executive must publish a notice about the outcome of the mining lease application in or on at least 1 of the following—

- (a) the gazette;
- (b) the department’s website;
- (c) another publication the chief executive considers appropriate.

- ‘(2) The notice must state—

- (a) the decision; and

-
- (b) if the decision was to grant the mining lease—all conditions decided by the Governor in Council; and
 - (c) if under subdivision 4, a resource management decision was required and that decision was to give overlapping authority priority for all or part of the land—the decision and the reasons for it.
- ‘(3) However, if the chief executive considers that information in any condition is commercial-in-confidence, the chief executive may instead of publishing the condition publish a statement about the intent of the condition.

‘Division 3 Priority to particular GHG lease applications

‘318ELBJ Earlier GHG lease application

‘If—

- (a) a mining lease application is made; and
- (b) before the making of that application a GHG lease application had been made but not decided; and
- (c) the mining lease and the GHG lease were both granted, the GHG lease would be an overlapping authority for the mining lease;

the mining lease application must not be decided until the GHG lease application has been decided.

‘318ELBK Proposed GHG lease for which EIS approval given

- ‘(1) This section applies for a mining lease application if—
- (a) before the making of the application, an approval under the Environmental Protection Act, chapter 3, part 2, was granted for the voluntary preparation of an EIS; and

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- (b) the EIS is for a project that is or includes a proposed GHG lease for land the subject of the application.
- ‘(2) The application must not be decided until—
- (a) if no application is made for the GHG lease within 1 year after the granting of the approval—the end of that year; or
 - (b) if an application is made for the GHG lease within that year—that application is decided.

‘318ELBL Proposed GHG lease declared a significant project

- ‘(1) This section applies for a mining lease application if—
- (a) before the making of the mining lease application a significant project was declared; and
 - (b) the project is, or includes, a proposed GHG lease for land the subject of the application.
- ‘(2) The application must not be decided until—
- (a) if no application is made for the GHG lease within 1 year after the making of the declaration—the end of that year; or
 - (b) if an application is made for the GHG lease within that year—that application is decided.

‘Division 4 Mining lease applications in response to invitation under GHG storage Act

‘318ELBM Application of div 4

‘This division applies if—

- (a) a mining lease application is made in response to an invitation given because of a resource management decision under the GHG storage Act; and
- (b) the application is made within 6 months after the giving of the invitation.

‘318ELBN Minister may refuse application

‘The Minister may without making any recommendation to the Governor in Council about the application, decide to refuse the application if satisfied the applicant has not in a timely manner—

- (a) taken any step for the application required of the applicant under part 7, part 7AA or this part; or
- (b) satisfied the Minister about a matter that under part 7, part 7AA or this part, is required for the Minister to recommend the granting of the mining lease.

‘Division 5 Additional provisions for particular mining tenements

‘Subdivision 1 Restrictions on authorised activities for particular mining tenements

‘318ELBO Prospecting permit overlapping with GHG lease

- ‘(1) This section applies if—
 - (a) land in the area of a prospecting permit is in the area of a GHG lease; and
 - (b) the prospecting permit and the GHG lease are not held by the same person.
- ‘(2) An authorised activity for the prospecting permit may be carried out on the land only if—

[s 511]

- (a) the GHG lease holder has not, in the way required under subsection (3), objected to the carrying out of the activity; or
- (b) if an objection under paragraph (a) has been made—the Minister has decided under section 318ELBQ that the authorised activity may be carried out.

Note—

For notice of authorised activities, see section 318ELBT.

- ‘(3) The objection must be written and given to the GHG authority holder and lodged at the relevant departmental office.

‘318ELBP Other overlapping authorities

- ‘(1) This section applies if land is in the area of a mining tenement and a GHG authority and section 318ELBO does not apply.
- ‘(2) An authorised activity for the mining tenement can not be carried out on the land if—
 - (a) carrying it out adversely affects the carrying out of an authorised activity for the GHG authority; and
 - (b) the authorised activity for the GHG authority has already started.

‘318ELBQ Resolving disputes

- ‘(1) This section applies if, under section 318ELBO a GHG lease holder has objected to the carrying out of an authorised activity by a prospecting permit holder.
- ‘(2) This section also applies if—
 - (a) section 318ELBP applies to a mining tenement holder and a GHG authority holder; and
 - (b) there is a dispute between the holders about whether an authorised activity for the mining tenement can be carried out under that section.

-
- ‘(3) Either of the parties may, by a notice in the approved form, ask the Minister to decide—
- (a) for section 318ELBO—whether the authorised activity may be carried out under that section; or
 - (b) for section 318ELBP—whether the authorised activity may be carried out under that section.
- ‘(4) Before making the decision, the Minister must give the parties a reasonable opportunity to make written submissions about the request within a reasonable period.
- ‘(5) The Minister must after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.
- ‘(6) The Minister’s decision binds the parties.
- ‘(7) If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.
- ‘(8) In this section—
- parties* means—
- (a) for a request about a matter mentioned in subsection (1)—the authority to prospect holder and the GHG lease holder; or
 - (b) for a request about a matter mentioned in subsection (2)—the mining tenement holder and the GHG authority holder.

‘Subdivision 2 Provisions about conditions

‘318ELBR Notice by particular mining tenement holders to particular GHG authority holders or applicants

- ‘(1) This section applies if—
- (a) a mining tenement as follows is granted—

[s 511]

- (i) a mining claim;
 - (ii) a mineral development licence;
 - (iii) an exploration permit; and
- (b) land in the mining tenement's area is in the area of, or in a proposed area under an application for, a GHG authority other than a GHG lease.
- ‘(2) It is a condition of the mining tenement that its holder must within 20 business days after the holder receives notice of the grant of the tenement give the GHG authority holder or the applicant a written notice stating—
- (a) that the mining tenement has been granted; and
 - (b) the mining tenement holder's name; and
 - (c) the term of the mining tenement.

‘318ELBS Restriction on recommendation to vary conditions of particular mining leases

‘If there is an overlapping GHG authority for a mining lease, a recommendation under section 294 for the variation of a condition of the mining lease must not be made unless the interests of the authority holder have been considered.

‘318ELBT Condition to notify particular GHG authority holders of proposed start of particular authorised activities

- ‘(1) This section applies to a mining tenement holder if there is either of the following (the *other authority*) for the mining tenement—
- (a) an overlapping GHG authority;
 - (b) a GHG authority that shares a common boundary with the mining tenement.
- ‘(2) Before the mining tenement holder first starts a designated activity in the other authority's area, the mining tenement

holder must give the other authority holder at least 30 business days notice of the activity.

- ‘(3) A notice under subsection (2) must be written and state—
 - (a) when the designated activity is to start; and
 - (b) where the designated activity is to be carried out; and
 - (c) the nature of the activity.
- ‘(4) Before changing the land on which the designated activity is being carried out, the mining tenement tenure holder must give the other authority holder at least 30 business days notice in writing stating where the activity is to be carried out.
- ‘(5) Compliance with this section is a condition of the mining tenement.
- ‘(6) In this section—

designated activity means any authorised activity for the mining tenement, other than—

 - (a) an authorised activity for the mining tenement that is the same as or similar to an incidental activity under the Petroleum and Gas (Production and Safety) Act, section 33 or 112; or
 - (b) an activity that only involves selecting places where other authorised activities for the mining tenement may be carried out.

‘318ELBU Requirement to continue GHG coordination arrangement after renewal of or dealing with mining lease

- ‘(1) This section applies if—
 - (a) a mining lease has an overlapping GHG authority that is a GHG lease; and
 - (b) a GHG coordination arrangement applies to the mining lease; and

[s 512]

(c) a renewal, assignment, consolidation or subletting takes place for the mining lease.

‘(2) It is a condition of the mining lease that its holder must continue to be a party to a GHG coordination arrangement for the mining lease while the GHG lease continues in force.’.

512 Amendment of s 403 (Offences regarding land subject to mining claim or mining lease)

Section 403(1)(d), after ‘Act relating to mining’—

insert—

‘, the GHG storage Act’.

513 Insertion of new s 764A

Part 19, division 7—

insert—

‘764A Application of public interest provisions to undecided applications

‘(1) To remove any doubt, it is declared that to the extent they are relevant the public interest provisions apply to any undecided application for the renewal of a mining tenement.

‘(2) In this section—

public interest provisions means sections 147A(1)(d), 197A(1)(e) and 286A(1)(g).

undecided application means an application lodged but not decided before the public interest provisions commenced.’.

514 Amendment of pt 19, div 10 hdg (Transitional provision for Clean Energy Act 2008)

Part 19, division 10, heading ‘provision’—

omit, insert—

‘provisions’.

515 Insertion of new s 767A

Part 19, division 10—

insert—

‘767A Application of s 208(3A) to existing applications

‘To remove any doubt, it is declared that section 208(3A) applies to an application lodged under section 208 but not decided before section 208(3A) commenced.’.

516 Insertion of new pt 19, div 11, sdiv 3

After section 771—

insert—

‘Subdivision 3 Miscellaneous provision

‘772 Existing applications

‘(1) To remove any doubt, it is declared that to the extent they are relevant the amendments to this Act under the amending Act apply to any undecided application for or relating to a mining tenement.

‘(2) In this section—

amending Act means the *Mines and Energy Legislation Amendment Act 2008*.

undecided application means an application lodged but not decided before the date of assent of the amending Act.

[s 517]

‘773 Minor corrections to section numbers

- ‘(1) In the following table each number in the second column appearing in the amending section in the first column is taken to have always been the number in the third column—

amending section 27(1)	83	82
amending section 54(1)	231	231E
amending section 68(1)	231G	318AAH

- ‘(2) This section expires at the end of the day after it commences.
- ‘(3) This section is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.
- ‘(4) In this section—
amending, for a section mentioned in this section, means that the section is a provision of the *Mines and Energy Legislation Amendment Act 2008*.’.

517 Amendment of schedule (Dictionary)

- (1) Schedule—

insert—

‘applicant, for part 7AAC, see section 318ELAQ.

GHG means greenhouse gas.

GHG assessment criteria, for part 7AAC, see section 318ELAR(1)(b).

GHG authority see the GHG storage Act, section 18(3).

GHG coordination arrangement see the GHG storage Act, section 186(3).

GHG lease see the GHG storage Act, section 18(1)(b).

GHG permit see the GHG storage Act, section 18(1)(a).

GHG public interest, for part 7AAC, see section 318ELAO.

GHG statement, for part 7AAC, see section 318ELAR(1)(a).

GHG storage Act see section 3B.

GHG storage activity means an authorised activity under the GHG storage Act for a GHG authority.

GHG stream storage see the GHG storage Act, section 14.

GHG tenure see the GHG storage Act, section 18(2).

holder submissions see section 318ELAU(1).

overlapping authority priority see section 318ELAU(3)(b)(i).

overlapping GHG authority see section 318ELAN.

overlapping GHG lease application period see section 318ELBA(2).

relevant departmental office, for an application or document that is required to be made, given or lodged under this Act, means—

- (a) the office of the department at which the relevant approved form provides that the application or document must be made, given or lodged; or
- (b) if the relevant approved form does not make provision as mentioned in paragraph (a) or if there is no relevant approved form—the office of the department as stated in a gazette notice by the chief executive; or
- (c) if paragraph (b) applies and no office is gazetted as mentioned in paragraph (b)—the office of the chief executive.

relevant land, for a mining lease application, means the land the subject of the application.’.

- (2) Schedule, definition *area*, ‘or petroleum tenure’—

omit, insert—

‘, petroleum tenure or GHG authority’.

[s 518]

(3) Schedule, definition *area*—

insert—

‘3 The *area*, of a GHG authority, is the land to which the authority is subject, as recorded in the GHG register under the GHG storage Act.’.

(4) Schedule, definition *authorised activity*—

insert—

‘3 An *authorised activity*, for a GHG authority, is an activity that its holder is, under the GHG storage Act or the authority, entitled to carry out in relation to the authority.’.

Part 18 **Amendment of Nature Conservation Act 1992**

518 **Act amended in pt 18**

This part amends the *Nature Conservation Act 1992*.

519 **Amendment of s 27 (Prohibition on mining)**

(1) Section 27, heading, after ‘mining’—

omit, insert—

‘**and GHG storage activities**’.

(2) Section 27(1), after ‘mining interest’—

insert—

‘or GHG authority’.

520 Amendment of s 45 (Conservation agreements)

Section 45(2)(a)—

omit, insert—

‘(a) if land in the area is subject to a lease, mining interest or GHG authority—the lessee, interest holder or GHG authority holder;’.

521 Amendment of s 70QA (Prohibition on mining in forest reserves)

(1) Section 70QA, heading, after ‘mining’—

insert—

‘**and GHG storage activities**’.

(2) Section 70QA, after ‘section 27’—

insert—

‘or a GHG authority’.

522 Amendment of schedule (Dictionary)

(1) Schedule—

insert—

‘**GHG authority** means a GHG authority under the *Greenhouse Gas Storage Act 2009*.’.

(2) Schedule, definition *interest*, after ‘mining interest’—

insert—

‘or GHG authority’.

(3) Schedule, definition *State land*, paragraph (d), after ‘mining interest’—

insert—

‘or GHG authority’.

Part 19 Amendment of Petroleum Act 1923

523 Act amended in pt 19

This part amends the *Petroleum Act 1923*.

524 Amendment of s 2 (Definitions)

(1) Section 2—

insert—

‘**GHG** means greenhouse gas.

GHG authority see the GHG storage Act, section 18(3).

GHG coordination arrangement see the GHG storage Act, section 186(3).

GHG lease see the GHG storage Act, section 18(1)(b).

GHG permit see the GHG storage Act, section 18(1)(a).

GHG storage Act see section 4A.

GHG storage activity means an authorised activity under the GHG storage Act for a GHG authority.

GHG stream see the GHG storage Act, section 12.

GHG stream storage see the GHG storage Act, section 14.

GHG tenure see the GHG storage Act, section 18(2).

information-giver, for part 6F, see section 78A(1).

overlapping GHG authority see section 78CB.

relevant departmental office, for an application or document that is required to be made, given or lodged under this Act, means—

- (a) the office of the department at which the relevant approved form provides that the application or document must be made, given or lodged; or

- (b) if the relevant approved form does not make provision as mentioned in paragraph (a) or if there is no relevant approved form—the office of the department as stated in a gazette notice by the chief executive; or
 - (c) if paragraph (b) applies and no office is gazetted as mentioned in paragraph (b)—the office of the chief executive.’.
- (2) Section 2, definition authorised activity—
- insert—*
- ‘3 An *authorised activity*, for a GHG authority, is an activity that its holder is, under the GHG storage Act or the authority, entitled to carry out or exercise in relation to the authority.’.

525 Insertion of new s 4A

After section 4—

insert—

‘4A Relationship with Greenhouse Gas Storage Act 2009

‘The relationship between this Act and the *Greenhouse Gas Storage Act 2009* (the ***GHG storage Act***) and authorities under them is provided for under—

- (a) section 40(1A) and part 6FA; and
- (b) the GHG storage Act, chapter 4.’.

526 Amendment of s 18 (Authority to prospect)

Section 18—

insert—

- ‘(5) However, the holder can not carry out GHG stream storage.’.

[s 527]

527 Amendment of s 40 (Lease to holder of authority to prospect)

Section 40(1A), after ‘coal or oil shale mining tenement’—
insert—
‘or a GHG storage activity’.

528 Amendment of s 44 (Form etc. of lease)

Section 44—
insert—
(2) Despite subsection (1)(b), the holder can not carry out GHG stream storage.’.

529 Amendment of s 74Z (Obligation to comply with Act and prescribed standards)

Section 74Z(2), definition *standard*, after ‘Australian Standard’—
insert—
‘an international standard’.

530 Amendment of s 75U (Obligation to decommission)

Section 75U(3)—
omit, insert—
(3) However, subsection (2) does not apply—
(a) for land that under section 20 ceases to be in the area of an authority to prospect; or
(b) for a well if—
(i) a GHG tenure is granted; and
(ii) the GHG tenure’s area includes the well; and

- (iii) the 1923 Act petroleum tenure holder and the GHG tenure holder have agreed in writing that the GHG tenure holder is to assume responsibility for the well; and
- (iv) a copy of the agreement has been given to the relevant departmental office.’.

531 Insertion of new pt 6FA

After part 6F—

insert—

‘Part 6FA Provisions for GHG authorities

‘Division 1 Preliminary

‘78CA Relationship with other provisions

- ‘(1) Requirements and restrictions under this part apply as well as any relevant requirements and restrictions under another provision of this Act.
- ‘(2) This part does not otherwise limit or affect relevant requirements or restrictions under another provision of this Act.

‘78CB What is an *overlapping GHG authority*

‘An *overlapping GHG authority*, for a 1923 Act petroleum tenure, is any GHG authority all or part of the area of which is in the tenure’s area.

‘78CC General provision about 1923 Act petroleum tenures for land subject to GHG authority

‘Subject to the other provisions of this part, the GHG storage Act or a GHG authority does not limit or otherwise affect the

[s 531]

carrying out of authorised activities for a 1923 Act petroleum tenure.

‘Division 2 Restrictions on authorised activities for authorities to prospect

‘78CD Overlapping GHG lease

- ‘(1) This section applies if—
- (a) land in the area of an authority to prospect is in the area of a GHG lease; and
 - (b) the authority to prospect and the GHG lease are not held by the same person.
- ‘(2) An authorised activity for the authority to prospect may be carried out on the land only if—
- (a) the GHG lease holder has not in the way required under subsection (3), objected to the carrying out of the activity; or
 - (b) if an objection under paragraph (a) has been made—the Minister has decided under section 78CF that the authorised activity may be carried out.

Note—

For notice of authorised activities, see section 78CM.

- ‘(3) The objection must be written, given to the authority to prospect holder and lodged at the relevant departmental office.

‘78CE Overlaps with other GHG authorities

- ‘(1) This section applies if land is in the area of an authority to prospect and a GHG authority other than a GHG lease.
- ‘(2) An authorised activity for the authority to prospect can not be carried out on the land if—

- (a) carrying it out adversely affects the carrying out of an authorised activity for GHG authority; and
- (b) the authorised activity for the GHG authority has already started.

‘78CF Resolving disputes about the restrictions

- ‘(1) This section applies if under section 78CD, a lease holder has objected to the carrying out of an authorised activity by an authority to prospect holder.
- ‘(2) This section also applies if—
 - (a) section 78CE applies to an authority to prospect holder and a GHG authority holder; and
 - (b) there is a dispute between the holders about whether an authorised activity for the authority to prospect can be carried out under that section.
- ‘(3) Either of the parties may by a notice in the approved form ask the Minister to decide—
 - (a) for section 78CD—whether the authorised activity may be carried out under that section; or
 - (b) for section 78CE—whether the authorised activity may be carried out under that section.
- ‘(4) Before making the decision, the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.
- ‘(5) The Minister must after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.
- ‘(6) The Minister’s decision binds the parties.
- ‘(7) If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.
- ‘(8) In this section—

[s 531]

parties means—

- (a) for a request about a matter mentioned in subsection (1)—the authority to prospect holder and the GHG lease holder; or
- (a) for a request about a matter mentioned in subsection (2)—the authority to prospect holder and the GHG authority holder.

‘Division 3 Leases with overlapping GHG authority

‘Subdivision 1 Continuance of coordination arrangements after renewal or dealing

‘78CG Requirement to continue GHG coordination arrangement

- ‘(1) This section applies if—
 - (a) a lease under this Act has an overlapping GHG authority that is a GHG lease; and
 - (b) a GHG coordination arrangement applies to the lease under this Act; and
 - (c) any of the following take place for the lease under this Act—
 - (i) a renewal;
 - (ii) a transfer;
 - (iii) a subletting of the lease or a share in the lease.
- ‘(2) It is a condition of the lease under this Act that its holder must continue to be a party to a GHG coordination arrangement for the lease while the GHG lease continues in force.

‘Subdivision 2 Later development plans

‘78CH Operation of sdiv 2

‘This subdivision imposes additional requirements for a proposed later development plan for a lease for which there is an overlapping GHG authority that is a GHG tenure.

‘78CI Statement about interests of GHG tenure holder

‘(1) The proposed plan must include a statement of how the effects on and the interests of the GHG tenure holder have or have not been considered having regard to the following—

- (a) the provisions of the 2004 Act, chapter 9;
- (b) the attempts made by the applicant to consult with the GHG tenure holder about the applicant’s proposed development plan and proposed safety management plan for the lease;
- (c) any changes to the proposed plans to give effect to any reasonable proposal by the GHG tenure holder;
- (d) the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed lease and the GHG tenure;
- (e) the GHG public interest.

‘(2) In this section—

GHG public interest means a consideration of each of the following—

- (a) government policy;
- (b) environmental impacts;
- (c) employment creation;
- (d) social impacts;

[s 531]

- (e) the overall economic benefit for the State, or a part of the State, in the short and long term;
- (f) impacts on aesthetic, amenity or cultural values.

‘78CJ Consistency with GHG tenure’s development plan and with any relevant coordination arrangement

- ‘(1) To the extent the area of the GHG lease and the GHG tenure will coincide, the proposed plan must be consistent with any GHG coordination arrangement for that area.
- ‘(2) Subsection (3) applies if the GHG tenure is a GHG lease.
- ‘(3) The proposed plan must to the extent the area of the petroleum lease and the GHG lease coincide or will coincide, be consistent with the development plan for the GHG lease.

‘Division 4 Provisions for all 1923 Act petroleum tenures

‘Subdivision 1 Safety management plans

‘78CK Requirements for consultation with particular GHG tenure holders

- ‘(1) This section applies if—
 - (a) a person (an *operator*) proposes to be an operator of operating plant in the area of a 1923 Act petroleum tenure; and
 - (b) activities (*relevant activities*) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient carrying out of GHG storage activities under an overlapping GHG authority for the 1923 Act petroleum tenure; and
 - (c) the overlapping GHG authority is a GHG tenure.

-
- ‘(2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the GHG tenure holder about relevant activities for the plant.
- ‘(3) If there is more than 1 operator, the 1923 Act petroleum tenure holder may coordinate the consultation between the operators and the GHG tenure holder.
- ‘(4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—
- (a) the operator gives the GHG tenure holder a copy of the parts of the operator’s proposed safety management plan concerning any relevant operating plant the operator proposes to operate for the relevant activities; and
- Editor’s note—*
- Section 78CI (Statement about interests of GHG tenure holder)
- (b) the GHG tenure holder has not within 30 days after the giving of the copy made any proposal to the operator about provisions for the plan.
- ‘(5) An operator must before making or remaking a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the plan proposed by the GHG tenure holder concerning relevant activities for the plant.
- ‘(6) However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant 1923 Act petroleum tenure holder.
- ‘(7) If an operator makes a safety management plan for relevant operating plant that includes provisions proposed by the GHG tenure holder, the operator must—
- (a) give the GHG tenure holder a copy; and
 - (b) lodge at the relevant departmental office a notice stating any provisions proposed under subsection (5) and whether they were included in the plan.

‘(8) In this section—

remaking, a safety management plan, includes an amendment or remaking of the plan of a type required under the 2004 Act, section 678.

‘78CL Application of 2004 Act provisions for resolving disputes about reasonableness of proposed provision

‘(1) This section applies if a dispute exists between an operator to which section 78CK applies and a GHG tenure holder about the reasonableness of a provision proposed by the GHG tenure holder for the operator’s proposed safety management plan.

‘(2) The 2004 Act, section 387, chapter 12 and schedule 1 apply to the dispute as if it were a dispute to which that section applies.

Editor’s note—

2004 Act, chapter 12 and schedule 1 (Reviews and appeals)

‘Subdivision 2 Other provisions

‘78CM Condition to notify particular GHG authority holders of proposed start of particular authorised activities

‘(1) This section applies to a 1923 Act petroleum tenure holder if there is either of the following (the *other authority*) for the 1923 Act petroleum tenure—

- (a) an overlapping GHG authority;
- (b) a GHG authority that shares a common boundary with the 1923 Act petroleum tenure.

‘(2) Before the 1923 Act petroleum tenure holder first starts a designated activity in the other authority’s area, the 1923 Act petroleum tenure holder must give the other authority holder at least 30 business days notice of the activity.

-
- ‘(3) A notice under subsection (2) must state—
- (a) when the designated activity is to start; and
 - (b) where the designated activity is to be carried out; and
 - (c) the nature of the activity.
- ‘(4) Before changing the land on which the designated activity is being carried out, the 1923 Act petroleum tenure holder must give the other authority holder at least 30 business days notice stating where the activity is to be carried out.
- ‘(5) Compliance with this section is a condition of the 1923 Act petroleum tenure.
- ‘(6) In this section—
- designated activity* means any authorised activity for the 1923 Act petroleum tenure, other than—
- (a) an authorised activity for the 1923 Act petroleum tenure that is the same as or similar to an incidental activity under the 2004 Act, section 33 or 112; or
 - (b) an activity that only involves selecting places where other authorised activities for the 1923 Act petroleum tenure may be carried out.
- GHG storage reservoir* see the GHG storage Act, section 13(2).

‘78CN Restriction on power to amend

‘If, for a 1923 Act petroleum tenure, there is an overlapping GHG authority that is a GHG tenure, the 1923 Act petroleum tenure may be amended under section 125 only if the interests of the GHG tenure holder have been considered.’

532 Amendment of s 79M (Application of pt 6J)

Section 79M(1), after ‘2004 Act petroleum authority’—

[s 533]

insert—
, a GHG authority’.

Part 20 Amendment of Petroleum and Gas (Production and Safety) Act 2004

533 Act amended in pt 20

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

534 Amendment of s 3 (Purpose of Act)

(1) Section 3, heading, ‘Purpose’—

omit, insert—
‘Main purpose’.

(2) Section 3(1), ‘purpose’—

omit, insert—
‘main purpose’.

535 Insertion of new s 3A

After section 3—
insert—

‘3A Secondary purpose—facilitation of Geothermal Exploration Act 2004 and Greenhouse Gas Storage Act 2009

‘(1) Another purpose of this Act is to facilitate the operation of the *Geothermal Exploration Act 2004* and the *Greenhouse Gas Storage Act 2009* (the ***GHG storage Act***).

- ‘(2) The *Geothermal Exploration Act 2004* is facilitated by applying provisions of this Act about investigations and some of its provisions about enforcement for that Act.
- ‘(3) The GHG storage Act is facilitated by—
- (a) providing for survey licences to be able to be granted for potential pipelines for GHG streams; and
 - (b) providing for pipeline licences to be able to be granted for GHG streams; and
 - (c) applying provisions of this Act about safety to particular authorised activities for authorities under that Act; and
 - (d) applying provisions of this Act about investigations and some of its provisions about enforcement for that Act.’

536 Insertion of new section 6B

After section 6A—

insert—

‘6B Relationship with GHG storage Act

‘The relationship between this Act and the GHG storage Act and authorities under them is provided for under—

- (a) chapter 3A; and
- (b) the GHG storage Act, chapter 4.’

537 Amendment of s 16 (What is a pipeline)

Section 16(1), from ‘transporting’—

omit, insert—

‘transporting—

- (a) generally—petroleum, fuel gas or prescribed storage gases; and
- (b) GHG streams; and
- (c) substances prescribed under section 402.

[s 538]

Note—

There is no automatic right to use a pipeline for a substance mentioned in paragraph (b) or (c). A condition of a pipeline licence may extend the licence holder's rights to include those substances. See sections 401 and 402.'

538 Amendment of s 22 (What is an *authorised activity*)

Section 22—

insert—

- '(3) An *authorised activity*, for a GHG authority, is an activity that its holder is, under the GHG storage Act or the authority, entitled to carry out or exercise in relation to the authority.'

539 Amendment of ch 2 hdg (Petroleum tenures and related matters)

Chapter 2, heading, note 2—

omit, insert—

- '2 Chapters 3 and 3A impose requirements for and restrictions on the granting of and restrictions on authorised activities that may be carried out under particular petroleum tenures. See sections 297 and 392AA.'

540 Amendment of s 31 (Operation of div 1)

- (1) Section 31(3)(c) to (f)—

renumber as section 31(3)(d) to (g).

- (2) Section 31(3)—

insert—

- '(c) chapter 3A, part 5; and'.

541 Amendment of s 32 (Exploration and testing)

Section 32(2)—

insert—

‘(c) GHG stream storage.’

542 Amendment of s 64 (Operation of div 4)

Section 64, notes, item 1—

insert—

• chapter 3A, part 5’.

543 Amendment of s 73 (Permitted period for production or storage testing)

Section 73—

insert—

‘(4) Despite subsections (1) to (3), an authority to prospect holder can not carry out GHG stream storage.’

544 Amendment of s 108 (Operation of sdiv 1)

(1) Section 108(3)(c) to (g)—

renumber as section 108(3)(d) to (h).

(2) Section 108(3)—

insert—

‘(c) chapter 3A, part 5; and’.

545 Amendment of s 109 (Exploration, production and storage activities)

Section 109(2)—

insert—

‘(c) GHG stream storage.’

[s 546]

546 Amendment of s 110 (Petroleum pipeline and water pipeline construction and operation)

Section 110(5), definition *petroleum pipeline*—
omit, insert—

‘*petroleum pipeline* means a pipeline as defined under section 16 other than a pipeline for transporting a GHG stream.

Notes—

- 1 See also the GHG storage Act, section 386 (Restriction on GHG storage activities).
- 2 For the granting of licences under this Act for pipelines for GHG streams see sections 16, 394, 400 and 402.’

547 Amendment of s 150 (Operation of div 5)

Section 150, notes, item 1—
insert—

- chapter 3A, part 5’.

548 Amendment of s 152 (Permitted period for production or storage testing)

Section 152—
insert—

- ‘(4) Despite subsections (1) to (3), a petroleum lease holder can not carry out GHG stream storage.’.

549 Amendment of s 180 (Key authorised activities)

- (1) Section 180(3)(c) to (e)—
renumber as section 180(3)(d) to (f).

- (2) Section 180(3)—
insert—

‘(c) chapter 3A, part 5; and’.

550 Amendment of s 193 (Operation of div 2)

- (1) Section 193(3)(c) to (e)—
renumber as section 193(3)(d) to (f).
- (2) Section 193(3)—
insert—
'(c) chapter 3A, part 5; and'.

551 Amendment of s 292 (Obligation to decommission)

- Section 292(3)—
insert—
'(c) for a petroleum well—
(i) if a GHG tenure is granted; and
(ii) the GHG tenure's area includes the well; and
(iii) the petroleum tenure holder and the GHG tenure holder have agreed in writing that the GHG tenure holder is to assume responsibility for the well; and
(iv) a copy of the agreement has been given to the relevant departmental office.'

552 Amendment of s 293 (Right of entry to facilitate decommissioning)

- Section 293(1), from 'ended' to 'the land'—
omit, insert—
'ended or the land'.

553 Amendment of s 340 (Right to grant if particular requirements met)

- Section 340(1), 'sections 337 and 339'—

[s 554]

omit, insert—

‘section 339’.

554 Insertion of new ch 3A

After chapter 3—

insert—

‘Chapter 3A Provisions for GHG authorities

‘Part 1 Preliminary

‘392AA Relationship with chs 2 and 3

- ‘(1) Requirements and restrictions under this chapter relating to the granting of a petroleum tenure apply as well as any relevant requirements under chapter 2 or 3.
- ‘(2) If this chapter imposes a requirement for or a restriction on the granting of a petroleum tenure, it can not be granted if the restriction applies or if the requirement has not been complied with.
- ‘(3) If a provision of this chapter conflicts with a provision of chapter 2 the provision of this chapter prevails to the extent of the inconsistency.
- ‘(4) This chapter does not otherwise limit or affect the requirements of chapter 2.
- ‘(5) Subsection (6) applies if this chapter imposes a requirement for or a restriction on the carrying out of an authorised activity for a petroleum tenure.
- ‘(6) Despite chapter 2, the activity is not an authorised activity for the petroleum tenure while the restriction applies or if the requirement has not been complied with.

‘392AB What is an *overlapping GHG authority*

- ‘(1) An *overlapping GHG authority*, for a petroleum authority is any GHG authority, all or part of the area of which is in the petroleum authority’s area.
- ‘(2) An *overlapping GHG authority*, for a proposed petroleum authority, is a GHG tenure all or part of the area of which will, if the proposed petroleum authority is granted, be in the GHG authority’s area.

‘392AC What is the *GHG public interest*

‘The *GHG public interest* is a consideration of each of the following—

- (a) government policy;
- (b) environmental impacts;
- (c) employment creation;
- (d) social impacts;
- (e) the overall economic benefit for the State, or a part of the State, in the short and long term;
- (f) impacts on aesthetic, amenity or cultural values.

‘392AD General provision about petroleum authorities for land subject to GHG authority

‘Subject to the other provisions of this chapter and chapters 2 and 3, the GHG storage Act or a GHG authority does not limit or otherwise affect—

- (a) the power under this Act to grant a petroleum authority;
or
- (b) the carrying out of authorised activities for a petroleum authority.

‘Part 2 Obtaining petroleum lease if overlapping GHG tenure

‘Division 1 Preliminary

‘392AE Application of pt 2

‘This part applies if—

- (a) a person (the *applicant*) wishes to make a petroleum lease application; and
- (b) there is an overlapping GHG authority for the proposed petroleum lease; and
- (c) the GHG authority is a GHG tenure.

‘Division 2 Requirements for application

‘392AF Requirements for making application

‘(1) The petroleum lease application must include—

- (a) a statement that complies with section 392AG (a *GHG statement*); and
- (b) other information that addresses the matters mentioned in subsection (2) (the *GHG assessment criteria*), other than about attempts to consult with the GHG tenure holder.

‘(2) The GHG assessment criteria are—

- (a) compliance with the provisions of chapter 9; and
- (b) the additional requirements under part 6 for proposed initial development plans; and
- (c) the potential for the parties to make a GHG coordination arrangement for the proposed petroleum lease; and

-
- (d) the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed petroleum lease and the GHG tenure; and
 - (e) the GHG public interest.

'392AG Content requirements for GHG statement

- '(1) The GHG statement must—
 - (a) assess—
 - (i) the likely effect of proposed authorised activities for the proposed petroleum lease on the future carrying out of GHG storage activities under the GHG tenure; and
 - (ii) the technical and commercial feasibility of coordinating the proposed authorised activities and the future carrying out of the GHG storage activities; and
 - (b) include a proposed safety management plan for all operating plant proposed to be operated under the proposed petroleum lease that may affect the possible future safe and efficient carrying out of the GHG storage activities.
- '(2) The proposed safety management plan must—
 - (a) for activities of the plant that may affect future safe and efficient future carrying out of the GHG storage activities—comply with the requirements under section 675 for a safety management plan; and
 - (b) include proposals for the minimisation of potential adverse effects on possible future carrying out of GHG storage activities under the GHG tenure.

‘Division 3 Consultation provisions

‘392AH Applicant’s information obligation

- ‘(1) The applicant must within 10 business days after making the petroleum lease application give the GHG tenure holder a copy of the application other than any part of the application relating to the capability criteria.
- ‘(2) If the Minister is reasonably satisfied the applicant has not complied with an obligation under this division, the petroleum lease application may be refused.

‘392AI Submissions by GHG tenure holder

- ‘(1) The GHG tenure holder may lodge submissions about the petroleum lease application (*holder submissions*) at the relevant departmental office.
- ‘(2) However, holder submissions may be lodged only within 4 months after the holder is given a copy of the application.
- ‘(3) Holder submissions may do all or any of the following—
 - (a) state that the holder does not object to the granting of the proposed petroleum lease;
 - (b) if the GHG tenure is a GHG permit—
 - (i) state that the holder does not wish any priority (*overlapping authority priority*) for GHG stream storage under any future GHG lease that may arise from the GHG permit; and
 - (ii) include a proposal by the GHG tenure holder for GHG stream storage under any future GHG lease that may arise from the GHG permit;
 - (c) include information about authorised activities carried out under the GHG tenure;
 - (d) include information relevant to the GHG assessment criteria;

- (e) propose reasonable provisions for the safety management plan for the proposed petroleum lease.
- ‘(4) The holder must give the applicant a copy of the holder submissions.

‘Division 4 Resource management decision if overlapping GHG permit

‘392AJ Application of div 4

- ‘(1) This division applies if—
- (a) the GHG tenure is a GHG permit; and
 - (b) the GHG permit holder has lodged holder submissions within 4 months after the holder was given a copy of the application; and
 - (c) the submissions state that the holder wishes overlapping authority priority.
- ‘(2) However, this division does not apply if, under the GHG storage Act, chapter 4, overlapping authority priority has been given for any of the relevant land.

Note—

If this division does not apply, the petroleum lease application proceeds immediately to decision under chapter 2 as affected by division 7.

‘392AK Resource management decision

‘The Minister must make a decision (the *resource management decision*) about whether to—

- (a) grant the petroleum lease application; or
- (b) give any overlapping authority priority for all or part of the relevant land; or

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- (c) not to grant the petroleum lease application and not to give any overlapping authority priority for any of the relevant land.

‘392AL Criteria for decision

‘The Minister must consider the following in making the resource management decision—

- (a) the GHG statement;
- (b) the GHG assessment criteria;
- (c) the holder submissions;
- (d) the GHG public interest.

‘392AM Restrictions on giving overlapping authority priority

‘Overlapping authority priority may be recommended or given only if it is considered—

- (a) either—
 - (i) it is unlikely that the applicant and the GHG permit holder will enter into a GHG coordination arrangement; or
 - (ii) a GHG coordination arrangement for the proposed petroleum lease is not commercially or technically feasible; and
- (b) the GHG public interest would be best served by not granting a petroleum lease to the applicant first.

‘Division 5 Process if resource management decision is to give overlapping authority priority

‘392AN Application of div 5

‘This division applies only if under division 4, a resource management decision is required and that decision was to give overlapping authority priority for all or part of the relevant land.

‘392AO Notice to applicant and GHG permit holder

- ‘(1) The chief executive must give the applicant and the GHG permit holder notice of the resource management decision.
- ‘(2) The notice must invite the GHG permit holder to, within 6 months after the giving of the notice (the *overlapping GHG lease application period*), apply for a GHG lease—
 - (a) if the priority is for all of the land—for all of the land; or
 - (b) if the priority is for part of the land—for that part.

‘392AP GHG lease application for all of the land

- ‘(1) This section applies if the priority is for all of the land and within the overlapping GHG lease application period the overlapping GHG permit holder applies for a GHG lease for all of the land.
- ‘(2) A further step can not be taken to decide the petroleum lease application until after the GHG lease application has been decided.

Note—

The GHG storage Act, chapter 4, part 5 provides for refusal of the GHG lease application if it is not pursued in a timely manner.

- ‘(3) If the decision on the GHG lease application is to grant a GHG lease for all of the land, the petroleum lease application is taken to have lapsed.

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‘392AQ GHG lease application for part of the land

- ‘(1) This section applies if the overlapping GHG permit holder applies for a GHG lease for part of the land within the overlapping GHG lease application period.
- ‘(2) The person who made the petroleum lease application may amend it so that a petroleum lease is only sought for all or part of the rest of the land.
- ‘(3) Unless the amendment is made, a further step can not be taken to decide the petroleum lease application until after the GHG lease application has been decided.
- ‘(4) If—
 - (a) the amendment has not been made; and
 - (b) the decision on the GHG lease application is to grant a GHG lease for part of the land;

the person who made the petroleum lease application may amend it so that a petroleum lease is only sought for all or part of the rest of the land.

Note—

If the petroleum lease application is not amended, see section 392AU (Application may be refused if no reasonable prospects of GHG coordination arrangement).

‘392AR No relevant lease application

‘If the GHG permit holder does not apply for a GHG lease for any of the land within the overlapping GHG lease application period, the petroleum lease application may be decided.

‘Division 6 Resource management decision not to grant and not to give priority

‘392AS Lapsing of application

‘The petroleum lease application is taken to have lapsed if—

- (a) under division 4, a resource management decision is required; and
- (b) that decision was not to grant the petroleum lease application and not to give any overlapping authority priority for any of the relevant land.

‘Division 7 Deciding application

‘392AT Application of div 7

‘This division applies if—

- (a) the GHG tenure holder has not lodged holder submissions within 4 months after the holder was given a copy of the application (the *submission period*) or at all; or
- (b) the GHG tenure holder has lodged holder submissions within the submission period stating that the holder does not wish any overlapping authority priority; or
- (c) under division 4, a resource management decision is required and—
 - (i) the resource management decision was not to give overlapping authority priority for any of the relevant land; or
 - (ii) the resource management decision was to give overlapping authority priority for all or part of the relevant land and after division 5 has been complied with the Minister decides to grant a petroleum lease for the land.

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‘392AU Application may be refused if no reasonable prospects of future GHG coordination arrangement

‘The Minister may decide to refuse the petroleum lease application if—

- (a) the Minister is satisfied the applicant and the GHG tenure holder have made reasonable attempts to reach a proposed GHG coordination arrangement (a *relevant arrangement*); and
- (b) either—
 - (i) the GHG tenure holder has lodged a notice at the relevant departmental office stating there are no reasonable prospects of a relevant arrangement being made; or
 - (ii) a relevant arrangement has not been lodged for approval by the Minister and the Minister considers the applicant and the GHG tenure holder have had a reasonable opportunity to make a relevant arrangement.

‘392AV Additional criteria for deciding provisions of petroleum lease

‘In deciding the provisions of the petroleum lease the Minister must consider all of the following—

- (a) the GHG statement;
- (b) the GHG assessment criteria;
- (c) any holder submissions;
- (d) the affect of the petroleum lease on the safe and efficient carrying out of GHG storage activities under the GHG tenure;
- (e) if the GHG tenure is a GHG permit—the affect of the petroleum lease on the safe and efficient carrying out of GHG storage activities under any future GHG lease that may arise from the permit.

‘392AW Publication of outcome of application

- ‘(1) After the Minister decides whether or not to grant the petroleum lease, the chief executive must publish a notice about the outcome of the petroleum lease application in or on at least 1 of the following—
- (a) the gazette;
 - (b) the department’s website;
 - (c) another publication the chief executive considers appropriate.
- ‘(2) The notice must state—
- (a) the decision; and
 - (b) if the decision was to grant the petroleum lease—all conditions of the petroleum lease other than the mandatory conditions; and
 - (c) if under division 4, a resource management decision was required and that decision was to give overlapping authority priority for all or part of the land—the decision, and the reasons for it.
- ‘(3) However, if the chief executive considers that information in any condition is commercial-in-confidence, the chief executive may, instead of publishing the condition, publish a statement about the intent of the condition.

‘Part 3 Priority to particular GHG lease applications

‘392AX Earlier GHG lease application

‘If—

- (a) a petroleum lease application is made; and

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- (b) before the making of that application a GHG lease application had been made but not decided; and
 - (c) the GHG lease application had not been decided before the making of the GHG lease application; and
 - (d) if the petroleum lease and the GHG lease were both granted, the GHG lease would be an overlapping GHG authority for the petroleum lease;
- the petroleum lease application must not be decided until the GHG lease application has been decided.

‘392AY Proposed GHG lease for which EIS approval given

- ‘(1) This section applies for a petroleum lease application if—
 - (a) before the making of the application, an approval under the Environmental Protection Act, chapter 3, part 2, was granted for the voluntary preparation of an EIS; and
 - (b) the EIS is for a project that is, or includes, a proposed GHG lease for land the subject of the application.
- ‘(2) The application must not be decided until—
 - (a) if no application is made for the GHG lease within 1 year after the granting of the approval—the end of that year; or
 - (b) if an application is made for the GHG lease within that year—that application is decided.

‘392AZ Proposed mining or petroleum lease declared a significant project

- ‘(1) This section applies for a petroleum lease application if—
 - (a) before the making of the application, a significant project was declared; and
 - (b) the project is, or includes, a proposed GHG lease for land the subject of the application.

-
- ‘(2) The application must not be decided until—
- (a) if no application is made for the GHG lease within 1 year after the making of the declaration—the end of that year; or
 - (b) if an application is made for the GHG lease within that year—that application is decided.

‘Part 4 Petroleum lease applications in response to invitation under GHG storage Act

‘392BA Application of pt 4

‘This part applies if—

- (a) a petroleum lease application is made in response to an invitation given because of a resource management decision under the GHG storage Act; and
- (b) the application is made within 6 months after the giving of the invitation.

‘392BB Additional ground for refusing application

- ‘(1) The Minister may decide to refuse the application if satisfied the applicant has not in a timely manner—
- (a) taken any step for the application required of the applicant under chapter 2 or 3 or this chapter; or
 - (b) satisfied the Minister about a matter that under chapter 2 or 3 or this chapter is required for the granting of the application.
- ‘(2) Subsection (2) does not limit section 843.

Editor's note—

section 843 (Additional information may be required about application)

‘Part 5 Additional provisions for petroleum authorities

‘Division 1 Restrictions on authorised activities for particular petroleum authorities

‘392BC Overlapping GHG lease

- ‘(1) This section applies if land in the area of any of the following petroleum authorities is in the area of a GHG lease—
 - (a) an authority to prospect;
 - (b) a data acquisition authority;
 - (c) a water monitoring authority.
- ‘(2) However, this section does not apply if the same person holds the GHG lease and the petroleum authority.
- ‘(3) An authorised activity for the petroleum authority may be carried out on the land only if—
 - (a) the GHG lease holder has not, in the way required under subsection (4), objected to—
 - (i) the carrying out of the activity; and
 - (ii) if chapter 9 requires a safety management plan for the petroleum authority—the safety management plan; or
 - (b) if an objection under paragraph (a) has been made—the Minister has decided under section 392BE that the authorised activity may be carried out.

Note—

For notice of authorised activities, see section 392BG.

- ‘(4) The objection must be written, given to the petroleum authority holder and lodged at the relevant departmental office.

‘392BD Overlapping GHG permit

- ‘(1) This section applies if land in the area of any of the following petroleum authorities is in the area of a GHG permit—
- (a) an authority to prospect;
 - (b) a data acquisition authority;
 - (c) a water monitoring authority.
- ‘(2) An authorised activity for the petroleum authority can not be carried out on the land if—
- (a) carrying it out adversely affects the carrying out of an authorised activity for the GHG permit; and
 - (b) the authorised activity for the GHG permit has already started.

‘392BE Resolving disputes

- ‘(1) This section applies if, under section 392BC, a GHG lease holder has objected to the carrying out of an authorised activity by a petroleum authority holder.
- ‘(2) This section also applies if there is a dispute between a petroleum authority holder and a GHG permit holder about whether an authorised activity for the petroleum authority can be carried out under section 392BD
- ‘(3) Either of the parties may, by a notice in the approved form, ask the Minister to decide—
- (a) for section 392BC—whether the authorised activity may be carried out under that section; or

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- (b) for section 392BD—whether the authorised activity may be carried out under that section.
- ‘(4) Before making the decision, the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.
- ‘(5) The Minister must after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.
- ‘(6) The Minister’s decision binds the parties.
- ‘(7) If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.
- ‘(8) In this section—
parties means—
 - (a) for a request about a matter mentioned in subsection (1)—the petroleum authority holder and the GHG lease holder; or
 - (b) for a request about a matter mentioned in subsection (2)—the petroleum authority holder and the GHG permit holder.

‘Division 2 Additional conditions

‘392BF Notice by authority to prospect holder to particular GHG authority holders or applicants

- ‘(1) This section applies if—
 - (a) an authority to prospect is granted; and
 - (b) land in the authority to prospect’s area is in the area of, or in a proposed area under an application for, a GHG authority other than a GHG lease.
- ‘(2) It is a condition of the authority to prospect that its holder must, within 20 business days after the holder receives notice

of the grant, give the holder of, or the applicant for, the GHG authority a notice stating—

- (a) that the authority to prospect has been granted; and
- (b) the authority to prospect holder's name; and
- (c) the term of the authority to prospect.

'392BG Condition to notify particular GHG authority holders of proposed start of particular authorised activities

- '(1) This section applies to a petroleum authority holder if there is either of the following (the *other authority*) for the petroleum authority—
 - (a) an overlapping GHG authority;
 - (b) a GHG authority that shares a common boundary with the petroleum authority.
- '(2) Before the petroleum authority holder first starts a designated activity in the other authority's area, the petroleum authority holder must give the other authority holder at least 30 business days notice of the activity.
- '(3) A notice under subsection (2) must state—
 - (a) when the designated activity is to start; and
 - (b) where the designated activity is to be carried out; and
 - (c) the nature of the activity.
- '(4) Before changing the land on which the designated activity is being carried out, the petroleum authority holder must give the other authority holder at least 30 business days notice stating where the activity is to be carried out.
- '(5) Compliance with this section is a condition of the petroleum authority.
- '(6) In this section—

GHG storage reservoir see the GHG storage Act, section 13(a).

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designated activity means any authorised activity for the petroleum authority, other than—

- (a) an incidental activity under section 33 or 112; or
- (b) an activity that only involves selecting places where other authorised activities for the petroleum authority may be carried out.

‘392BH Requirement to continue GHG coordination arrangement after renewal of or dealing with petroleum lease

- ‘(1) This section applies if—
- (a) a petroleum lease has an overlapping GHG authority that is a GHG lease; and
 - (b) a GHG coordination arrangement applies to the petroleum lease; and
 - (c) any of the following take place for the petroleum lease—
 - (i) a renewal;
 - (ii) a transfer;
 - (iii) a subletting of the lease or a share in the petroleum lease.
- ‘(2) It is a condition of the petroleum lease that its holder must continue to be a party to a GHG coordination arrangement for the lease while the GHG lease continues in force.

‘Division 3 Restriction on Minister’s power to amend petroleum lease if overlapping GHG tenure

‘392BI Interests of overlapping GHG tenure holder to be considered

‘If for a petroleum tenure, there is an overlapping GHG authority that is a GHG tenure, the petroleum tenure may be amended under section 848 only if the Minister has considered the interests of the GHG tenure holder.

‘Part 6 Additional provisions for development plans if overlapping GHG tenure

‘392BJ Operation of pt 6

‘This part imposes additional requirements for the following for which there is an overlapping GHG authority that is a GHG tenure—

- (a) a proposed initial development plan for a proposed initial development plan for a petroleum lease;
- (b) a proposed later development plan for a petroleum lease.

‘392BK Statement about interests of GHG tenure holder

‘The proposed plan or amendment must include a statement of how the effects on and the interests of the GHG tenure holder have or have not been considered having regard to the GHG assessment criteria.

‘392BL Consistency with GHG tenure’s development plan and with any relevant coordination arrangement

- ‘(1) To the extent the area of the GHG lease and the GHG tenure coincide or will coincide, the proposed plan must be

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consistent with any GHG coordination arrangement for that area.

- ‘(2) Subsection (3) applies if the GHG tenure is a GHG lease.
- ‘(3) The proposed plan must, to the extent the area of the petroleum lease and the GHG lease coincide, or will coincide, be consistent with the development plan for the GHG lease.

‘392BM Additional criteria for approval

‘In deciding whether to approve the proposed plan the Minister must consider the GHG assessment criteria.

‘Part 7 Additional provisions for safety management plans

‘392BN Grant of petroleum lease does not affect obligation to make plan

- ‘(1) This section applies if a GHG statement accompanies a petroleum lease application as required under this chapter.
- ‘(2) The deciding of the application or the grant of the petroleum lease—
 - (a) does not affect the obligation to make a safety management plan for any operating plant in the petroleum lease’s area; and
 - (b) is not of itself evidence that a safety management plan or purported safety management plan for an operating plant on the petroleum lease’s area complies with chapter 9.

‘392BO Requirements for consultation with particular GHG tenure holders

- ‘(1) This section applies if—
- (a) a person (an *operator*) proposes to be an operator of operating plant in the area of a petroleum tenure; and
 - (b) activities (*relevant activities*) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient carrying out of GHG storage activities under an overlapping GHG authority for the petroleum tenure; and
 - (c) the overlapping GHG authority is a GHG tenure.
- ‘(2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the GHG tenure holder about relevant activities for the plant.
- ‘(3) If there is more than 1 operator, the petroleum tenure holder may coordinate the consultation between the operators and the GHG tenure holder.
- ‘(4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—
- (a) the operator gives the GHG tenure holder a copy of the relevant parts of the operator’s proposed safety management plan concerning any relevant operating plant the operator proposes to operate for the relevant activities; and
- Editor’s note—*
- Section 392AG (Content requirements for GHG statement)
- (b) the GHG tenure holder has not within 30 days after the giving of the copy made any proposal to the operator about provisions for the plan.
- ‘(5) An operator must before making or remaking a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable

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provisions for the plan proposed by the GHG tenure holder concerning relevant activities for the plant.

- ‘(6) However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant petroleum tenure holder.
- ‘(7) If an operator makes a safety management plan for relevant operating plant that includes provisions proposed by the GHG tenure holder, the operator must—
- (a) give the GHG tenure holder a copy; and
 - (b) lodge at the relevant departmental office a notice stating any provisions proposed under subsection (5) and whether they were included in the plan.
- ‘(8) In this section—

remaking, a safety management plan, includes an amendment or remaking of the plan of a type required under section 678.

‘392BP Application of provisions for resolving disputes about reasonableness of proposed provision

- ‘(1) This section applies if a dispute exists between an operator to which section 392BO applies and a GHG tenure holder about the reasonableness of a provision proposed by the GHG tenure holder for the operator’s proposed safety management plan.
- ‘(2) Section 387, chapter 12 and schedule 1 apply to the dispute as if it were a dispute to which those provisions apply.

Editor’s note—

Chapter 12 and schedule 1 (Reviews and appeals)’.

555 Amendment of s 400 (Restriction if there is an existing mining lease)

- (1) Section 400, heading, after ‘mining lease’—

insert—

‘or GHG lease’.

- (2) Section 400, ‘mining lease and the mining lease’—

omit, insert—

‘mining lease or GHG lease and the lease’.

- (3) Section 400(a), ‘mining’—

omit.

556 Amendment of s 402 (Licence may extend transportation right to other prescribed substances)

Section 402(1), from ‘transportation of’—

omit, insert—

‘transportation of either of the following substances—

- (a) a GHG stream;
- (b) a substance prescribed under a regulation.’.

557 Amendment of s 422 (Obligations in operating pipeline)

Section 422(1), from ‘transport petroleum’—

omit, insert—

‘transport—

- (a) petroleum or fuel gas; and
- (b) if, under section 402, the right to operate the pipeline is extended to include another substance—the other substance.’.

558 Amendment of s 476 (Notice requirements)

Section 476(2), ‘408’—

[s 559]

omit, insert—

‘409A’.

559 Replacement of ch 5, pt 4, hdg (Access to land in area of another petroleum authority or a mining tenement)

Chapter 5, part 5, heading—

omit, insert—

‘Part 4 Access to land in area of particular other authorities’.

560 Amendment of s 528 (Application of pt 4)

Section 528(1), after ‘1923 Act petroleum tenure’—

insert—

‘, a GHG authority’.

561 Amendment of s 547 (Requirement to keep records and samples)

Section 547(2), ‘basic’—

omit.

562 Amendment of s 553 (Power to require information or reports about authorised activities to be kept or given)

Section 553(2), ‘basic’—

omit.

563 Amendment of s 557 (Obligation to comply with Act and prescribed standards)

Section 557(2), definition *standard*—

omit, insert—

‘standard includes an Australian Standard, an international standard or a code or protocol.

Note—

For prescribed standards for GHG stream pipelines in the area of a GHG tenure, see the GHG storage Act, section 331.’.

564 Amendment of s 573 (Deciding application)

Section 573(3)(b)(iii), ‘3 months’—

omit, insert—

‘6 months’.

565 Amendment of s 669 (Making safety requirement)

Section 669—

insert—

‘(c) about GHG storage activities.’.

566 Amendment of s 670 (What is an *operating plant*)

(1) Section 670(2)—

insert—

‘(f) a facility that is used to carry out a GHG storage activity;

(g) a GHG stream pipeline under the GHG storage Act.’.

(2) Section 670(5)(d), after ‘petroleum authority’—

insert—

‘or a GHG authority’.

(3) Section 670(6)—

insert—

[s 567]

‘(c) any part of the area of GHG authority on which an operating plant under subsections (2) to (5) happens or is located as a GHG storage activity for the authority.’.

567 Amendment of s 675 (Content requirements for safety management plans)

Section 675(1)(f), after ‘the same petroleum tenure’—

insert—

‘or GHG authority’.

568 Amendment of s 690 (Content requirements for safety reports)

(1) Section 690(1)(h)—

renumber as section 690(1)(i).

(2) Section 690(1)—

insert—

‘(h) if the operations of the operating plant during all or part of the year may have affected the future safe and efficient carrying out of GHG storage activities—

- (i) the nature of any hazard or potential hazard to the future safe and efficient carrying out of the GHG storage activities; and
- (ii) the way in which the hazard or potential hazard was created; and
- (iii) the location stated in the way prescribed under a regulation of the hazard or potential hazard; and
- (iv) measures taken to prevent or reduce the hazards or potential hazards or to mitigate their effects;’.

569 Replacement of s 691 (Obligation to give information to coal or oil shale exploration tenement holder)

Section 691—

omit, insert—

‘691 Obligation to give information to particular authority holders

‘(1) This section applies if—

- (a) an executive safety manager for an operating plant gives a safety report that contains information mentioned in section 690(1)(g) or (h); and
- (b) either—
 - (i) there is a holder of a coal or oil shale exploration tenement under which the safe and efficient mining of coal or oil shale may have been affected by the operation of the operating plant; or
 - (ii) there is a holder of a GHG tenure under which the carrying out of GHG storage activities may have been affected by the operation of the operating plant.

‘(2) The executive safety manager must, as soon as practicable, give the holder the following information in the report—

- (a) if the holder is a coal or oil shale exploration tenement holder—the information mentioned in section 690(1)(g);
- (b) if the holder is a GHG tenure holder—the information mentioned in section 690(1)(h).

Maximum penalty—500 penalty units.

‘(3) Chapter 3, part 8 applies to any information given under this section—

- (a) as if the information were given for the purposes of chapter 3; and

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- (b) if the information is given to a holder of a GHG tenure, as if a reference in that part to a coal or oil shale exploration tenement included a reference to a GHG tenure.’.

570 Replacement of s 699A (Operator’s obligation for adjacent or overlapping coal mining operations)

Section 699A—

omit, insert—

‘699A Operator’s obligation for particular adjacent or overlapping authorities

‘The operator of an operating plant must not carry out an activity at the plant if the activity creates an unacceptable level of risk to—

- (a) a person or operating plant at adjacent or overlapping coal mining operations under the Coal Mining Safety and Health Act; or
- (b) a person carrying out authorised activities or for an operating plant used to carry out authorised activities under an adjacent or overlapping petroleum tenure, 1923 Act petroleum tenure or GHG tenure.

Maximum penalty—1500 penalty units.’.

571 Amendment of s 705 (Application of sdiv 1)

- (1) Section 705(a)(i) and (ii)—

omit, insert—

- (i) in the area of a coal or oil shale mining lease; or
- (ii) in the area of a GHG lease; or
- (iii) in an area adjacent to the area of a coal or oil shale mining lease or GHG lease; and’.

- (2) Section 705(b), after ‘mining lease’—

insert—

‘or GHG storage activities under the GHG lease’.

572 Amendment of s 705A (Requirement to have principal hazard management plan)

(1) Section 705A, ‘mining lease holder’—

omit, insert—

‘mining lease or GHG lease holder’.

(2) Section 705A(3), after ‘relevant petroleum tenure holder’—

insert—

‘or GHG tenure holder’.

573 Amendment of s 705B (Content requirements for principal hazard management plan)

(1) Section 705B(b)(ii), examples, item 2, ‘the mining lease holder’—

omit, insert—

‘a mining lease holder’.

(2) Section 705B(c), after ‘petroleum wells’—

insert—

‘or GHG wells under the GHG storage Act’.

574 Amendment of s 705C (Resolving disputes about provision proposed by mining lease holder)

Section 705C, after ‘mining lease’—

insert—

‘or GHG lease’.

[s 575]

575 Amendment of s 708B (Chief inspector may issue safety alerts and instructions)

Section 708B(3), after ‘the petroleum or fuel gas industry’—
insert—
‘or to GHG storage activities’.

576 Amendment of s 736 (Functions)

- (1) Section 736(1)(a), from ‘and provisions’—
omit, insert—
‘and—
(i) the provisions of this Act relating to safety; and
(ii) the provisions of the *Geothermal Exploration Act 2004*; and
(iii) the provisions of the GHG storage Act;’.
- (2) Section 736(1)(c), after ‘involving petroleum or fuel gas’—
insert—
‘, a geothermal energy activity or GHG streams’.
- (3) Section 736(1)(d), after ‘for this Act’—
insert—
‘, the *Geothermal Exploration Act 2004* or the GHG storage Act’.
- (4) Section 736(2)(a), after ‘safety’—
insert—
‘, and the provisions of the *Geothermal Exploration Act 2004* and the GHG storage Act’.
- (5) Section 736(2)(b), after ‘for this Act’—
insert—
‘, the *Geothermal Exploration Act 2004* and the GHG storage Act’.

577 Amendment of s 744 (Inspector's additional entry power for emergency or incident)

Section 744(1), after 'petroleum or fuel gas'—

insert—

' , a geothermal energy activity or a GHG stream'.

578 Amendment of s 746 (Authorised officer's additional entry power for petroleum authority)

Section 746, after 'petroleum authority'—

insert—

' , geothermal exploration permit or GHG authority'.

579 Amendment of s 769 (Testing seized things)

Section 769(2)(a) after 'petroleum or fuel gas'—

insert—

' or a part of a GHG stream'.

580 Amendment of s 780 (Power to give compliance direction)

Section 780(1), after 'this Act'—

insert—

' , the *Geothermal Exploration Act 2004* or the GHG storage Act'.

581 Amendment of s 781 (Requirements for giving compliance direction)

Section 781(1)(a), after 'this Act'—

insert—

' , the *Geothermal Exploration Act 2004* or the GHG storage Act'.

[s 582]

582 Amendment of s 802 (Restriction on pipeline construction or operation)

Section 802(1)(a)(i)—

omit, insert—

‘(i) carried out under this Act, the 1923 Act or the GHG storage Act and under the authority of a petroleum tenure, a 1923 Act petroleum tenure or a GHG tenure; or’.

583 Amendment of s 892 (Provisions for deciding application and grant of petroleum lease)

Section 892(1), note—

omit, insert—

‘*Note—*

Chapters 3 and 3A may also apply for the application. See sections 297 and 392AA.’.

584 Amendment of s 910 (Renewal application provisions apply for making and deciding grant application)

Section 910(3), note—

omit, insert—

‘*Note—*

Chapters 3 and 3A may also apply for the grant application. See sections 297 and 392AA.’.

585 Amendment of sch 2 (Dictionary)

(1) Schedule 2—

insert—

‘*applicant* for chapter 3A, part 2, see section 392AE(a).

geothermal energy activity means geothermal exploration as defined under the *Geothermal Exploration Act 1994* or any

activity related to the extraction or production of geothermal energy as defined under that Act.

GHG means greenhouse gas.

GHG assessment criteria, for chapter 3A, see section 392AF(1)(b).

GHG authority see the GHG storage Act, section 18(3).

GHG coordination arrangement see the GHG storage Act, section 186(3).

GHG lease see the GHG storage Act, section 18(1)(b).

GHG permit see the GHG storage Act, section 18(1)(a).

GHG public interest, for chapter 3A, see section 392AC.

GHG statement, for chapter 3A, see section 392AF(1)(a).

GHG storage Act see section 3A(1).

GHG storage activity see the GHG storage Act, section 23.

GHG stream see the GHG storage Act, section 12.

GHG stream storage see the GHG storage Act, section 14.

GHG tenure see the GHG storage Act, section 18(2).

holder submissions see section 392AI(1).

overlapping authority priority see section 392AI(3)(b)(i).

overlapping GHG authority see section 392AB.

overlapping GHG lease application period see section 392AO(2).

relevant departmental office, for an application or document that is required to be made, given or lodged under this Act, means—

- (a) the office of the department at which the relevant approved form provides that the application or document must be made, given or lodged; or
- (b) if the relevant approved form does not make provision as mentioned in paragraph (a) or if there is no relevant

[s 586]

approved form—the office of the department as stated in a gazette notice by the chief executive; or

- (c) if paragraph (b) applies and no office is gazetted as mentioned in paragraph (b)—the office of the chief executive.

relevant land, for a petroleum lease application, means the land the subject of the application.

resource management decision see section 392AK.’.

- (2) Schedule 2, definition *dangerous situation*, after ‘petroleum or fuel gas’—

insert—

‘, a geothermal energy activity or a GHG stream’.

- (3) Schedule 2, definition *operate*, paragraph 2—

omit, insert—

‘2 For paragraph 1, using a pipeline includes using it to transport—

- (a) generally—petroleum or fuel gas; and
(b) if, under section 402, the right to operate the pipeline is extended to include another substance—the other substance.’.

Part 21 **Amendment of Queensland Competition Authority Act 1997**

586 **Act amended in pt 21**

This part amends the *Queensland Competition Authority Act 1997*.

587 Amendment of s 70 (Meaning of *facility*)

(1) Section 70(1)(c), ‘or gas’—

omit, insert—

‘, gas or GHG stream’

(2) Section 70—

insert—

‘(3) In this section—

‘**GHG stream** see the *Greenhouse Gas Storage Act 2009*, section 12.’.

Part 22 Amendment of Queensland Heritage Act 1992

588 Act amended in pt 22

This part amends the *Queensland Heritage Act 1992*.

589 Amendment of schedule (Dictionary)

(1) Schedule, definition *owner*, paragraph 1(c) to (e)—

renumber as paragraph 1(d) to (f).

(2) Schedule, definition *owner*, paragraph 1—

insert—

‘(d) for land the subject of a GHG authority under the *Greenhouse Gas Storage Act 2009*—the person who holds the authority.’.

[s 590]

Part 23 **Amendment of State Development and Public Works Organisation Act 1971**

590 Act amended in pt 23

This part amends the *State Development and Public Works Organisation Act 1971*.

591 Amendment of s 26 (Declaration of significant project)

(1) Section 26(9)—

renumber as section 26(10).

(2) Section 26—

insert—

‘(9) If the project involves a proposed GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*, the Coordinator-General must also give a copy of the gazette notice to the Minister for the time being administering that Act.’.

592 Amendment of s 35 (Coordinator-General evaluates EIS, submissions, other material and prepares report)

Section 35(4)(b), ‘or 49B’—

omit, insert—

‘, 49B or 49E’.

593 Amendment of s 35I (Coordinator-General’s change report)

Section 35I(2)(a), ‘or 49B’—

omit, insert—

‘, 49B or 49E’.

594 Amendment of pt 4, div 6, sdiv 1, hdg (Relationship for non-code compliant environmental authority (petroleum activities))

Part 4, division 6, subdivision 1, heading, '(petroleum activities)'—

omit, insert—

'(chapter 5A activities)'.

595 Amendment of section 47B (Application of sdiv 1)

(1) Section 47B(a), '(petroleum activities)'—

omit, insert—

'(chapter 5A activities)'.

(2) Section 47B(b), from 'chapter 4A'—

omit, insert—

'chapter 5A of that Act.

Note—

See the Environmental Protection Act, section 309B(4) (Types of environmental authorities (chapter 5A activities)).'

596 Insertion of new pt 4, div 6B

Part 4—

insert—

'Division 6B Relationship with Greenhouse Gas Storage Act 2009

'49D Application of div 6B

This division applies if the project involves a proposed GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*.

[s 597]

‘49E Application of Coordinator-General’s report to proposed lease

- ‘(1) The Coordinator-General’s report for the EIS for the project may state conditions for the proposed lease.
- ‘(2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the Minister of the department in which the *Greenhouse Gas Storage Act 2009* is administered a copy of the report.’.

597 Amendment of section 175A (EIS must not, under particular other Acts, be required for PNG pipeline project)

Section 175A(1)(a), ‘(petroleum activities)’—
omit, insert—
‘(chapter 5A activities)’.

Part 24 Amendment of Survey and Mapping Infrastructure Act 2003

598 Act amended in pt 24

This part amends the *Survey and Mapping Infrastructure Act 2003*.

599 Amendment of s 21 (Power to place a permanent survey mark)

Section 21(2)(b)—
insert—

‘(v) a GHG tenure under the *Greenhouse Gas Storage Act 2009*.’.

Part 25 Amendment of Torres Strait Islander Land Act 1991

600 Act amended in pt 25

This part amends the *Torres Strait Islander Land Act 1991*.

601 Amendment of s 3 (Definitions)

Section 3, definition *interest*—

insert—

‘(f) a GHG authority under the *Greenhouse Gas Storage Act 2009*.’.

602 Amendment of s 128 (Creation of interests in transferable and claimable land)

Section 128(1)(a) and (3)(a)—

omit, insert—

‘(a) the interest is a—

- (i) mining interest; or
- (ii) geothermal exploration permit under the *Geothermal Exploration Act 2004*; or
- (iii) GHG authority under the *Greenhouse Gas Storage Act 2009*; or’.

[s 603]

Part 26 **Amendment of Valuation of Land Act 1944**

603 Act amended in pt 26

This part amends the *Valuation of Land Act 1944*.

604 Amendment of s 26 (Valuation of petroleum leases)

- (1) Section 26, heading, after ‘petroleum leases’—

insert—

‘**and GHG leases**’.

- (2) Section 26, after ‘petroleum lease’—

insert—

‘or GHG lease’.

- (3) Section 26(2)—

insert—

‘**GHG lease** means a GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*.’.

- (4) Section 26(2), definition *yearly rent*, ‘or the *Petroleum and Gas (Production and Safety) Act 2004*’—

omit, insert—

‘, *Petroleum and Gas (Production and Safety) Act 2004* or the *Greenhouse Gas Storage Act 2009*’.

Part 27 **Amendment of Water Supply (Safety and Reliability) Act 2008**

605 Act amended in pt 27

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

606 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *mining activity* and *petroleum activity*—
omit.
- (2) Schedule 3, definition *wastewater*, from ‘generated from’
omit, insert—
‘generated from—
 - (a) an agricultural activity; or
 - (b) a mining activity or chapter 5A activity as defined under the *Environmental Protection Act 1994*, schedule 4.’.

Part 28 **Amendment of Whistleblowers Protection Act 1994**

607 Act amended in pt 28

This part amends the *Whistleblowers Protection Act 1994*.

608 Amendment of sch 2 (Offences endangering the environment)

- (1) Schedule 2, entries for *Petroleum Act 1923* and *Petroleum Regulation 1966*—

omit.

(2) Schedule 2—

insert—

‘Greenhouse Gas Storage Act 2009

- All provisions for which a contravention is an offence

Petroleum Act 1923

- All provisions for which a contravention is an offence

Petroleum and Gas (Production and Safety) Act 2004

- All provisions for which a contravention is an offence’.

Part 29 Amendment of Workplace Health and Safety Act 1995

609 Act amended in pt 29

This part amends the *Workplace Health and Safety Act 1995*.

610 Amendment of s 3 (Application of Act)

Section 3(1)(c)—

insert—

- (iii) a GHG authority under the *Greenhouse Gas Storage Act 2009*; or’.

Schedule 1 Decisions subject to appeal

section 395(1)

Section reference	Description of decision
GHG permits	
64	refusal to approve proposed later work program
69	refusal to approve amendment to work program
69	imposition of condition about relinquishment for amendment to work program
80	refusal to approve proposed test plan
80	decision to impose condition on proposed test plan
96	refusal to renew GHG permit
102	refusal of application for declaration of potential storage area
108	decision to take proposed action under section 107 for GHG permit
GHG leases	
117	decision not to grant a GHG lease on ATP-related application
154	refusal to approve proposed later development plan
158	refusal to approve amendment to development plan
161	refusal to approve proposed test plan
161	decision to impose condition on proposed test plan
179	refusal to approve surrender of GHG lease

Section reference	Description of decision
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GHG coordination arrangements

193	cancellation of GHG coordination arrangement
-----	--

Decisions under chapter 5

271	decision to require security for GHG authority other than security in the form and amount prescribed under section 271(2)
-----	---

272	decision to require increase in total security required to more than the prescribed amount under section 271(2) when the requirement is made
-----	--

303	decision to give road use direction
-----	-------------------------------------

315	imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant GHG authority holder
-----	---

353	refusal to approve application for approval and registration of third party transfer
-----	--

364	decision to give a serious situation direction
-----	--

371	decision to take action to ensure compliance with a requirement under this Act of a GHG authority holder other than action to which the holder has agreed
-----	---

375	refusal to replace instrument for GHG authority
-----	---

Noncompliance action

383	decision to take noncompliance action for GHG authority
-----	---

Schedule 2 Dictionary

section 11

1923 Act means the *Petroleum Act 1923*.

access agreement see section 288(2).

access land, for a GHG authority, see section 287(3).

access rights see section 287(2).

appeal period, for a decision, means the period provided for under section 396 for starting an appeal against the decision.

applicant, for chapter 4, part 3, see section 195(a).

application includes a tender in response to a call for tenders.

appropriately qualified, for the performance of a function or exercise of a power, includes having the qualifications, experience and competence to perform the function or exercise the power.

approved form means the form approved under section 428.

area—

- 1 The *area*, of a GHG authority, is the land to which the authority is subject as recorded in the GHG register.
- 2 The *area* of an authority granted under another Act is its area as defined under that Act or the area to which the authority is subject under that Act.

ATP means an authority to prospect.

authorised activity, for a GHG authority, see section 22.

authority to prospect means an authority to prospect under the 1923 Act or the P&G Act.

block see section 26(1).

call for tenders—

- (a) for chapter 2, part 2—see section 33(1); or

(b) for chapter 3, part 3—see section 125(1).

capability criteria—

(a) for chapter 2—see section 42(2); or

(b) for chapter 3—see section 118(2).

closing time, for a call for tenders—

(a) for a GHG permit—see section 33(2)(a); or

(b) for a GHG lease—see section 125(2)(a).

compensation agreement—

(a) for chapter 5, part 8—see section 306(1); or

(b) for chapter 5, part 10—see section 320(1).

compensation application, for chapter 5, part 8, division 1, means an application made under section 307(1).

compensation liability—

(a) for chapter 5, part 8, division 1—see section 305(2); or

(b) for chapter 5, part 10—see section 319(3).

conditions, of a GHG authority, see section 20.

construct, a structure, includes placing the structure.

contiguous, for land, means abutting, with at least 1 side in common.

conviction includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

costs, incurred by the State, includes the cost of services that the State provides for itself.

dangerous situation means a situation relating to petroleum or fuel gas or a GHG stream in which an inspector reasonably believes an imminent risk of material harm to persons or property is likely if action is not taken to avoid, eliminate or minimise the risk.

data acquisition activities see section 233(1).

dealing, with a GHG authority, see section 345.

development plan, for a GHG lease, see section 25(1).

development plan criteria see section 147(2).

drill includes to bore.

eligible claimant, for compensation, see section 319(2).

eligible person see section 19.

enhanced petroleum recovery means producing petroleum by injecting a substance including for example, GHG, into a natural underground reservoir as defined under the P&G Act.

enter a place includes the exercise of the rights in relation to the place under section 423.

entry notice—

(a) for chapter 5, part 7—see section 279(1)(a); or

(b) for chapter 5, part 8—see section 312(2)(b).

entry period—

(a) for chapter 5, part 7—see section 281(1)(b); or

(b) for chapter 5, part 8—see section 314(1)(b).

Environmental Protection Act means the *Environmental Protection Act 1994*.

excluded land—

(a) for a GHG permit—means excluded land for the permit decided under section 46; or

(b) for a GHG lease—means excluded land for the lease decided under section 137.

executive officer, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or the person's position is given the name of executive officer.

exploration authority (non-GHG), for chapter 4, see section 184.

fee includes tax.

first authority, for chapter 5, part 9, see section 316(1).

formed road means any existing road or track on private or public land used or that may reasonably be capable of being used to drive or ride motor vehicles.

Geothermal Act means the *Geothermal Exploration Act 2004*.

geothermal exploration permit means a geothermal exploration permit under the Geothermal Act.

GHG means greenhouse gas.

GHG assessment criteria see section 196(1)(b).

GHG authority see section 18(3).

GHG coordination arrangement see section 186(3).

GHG data acquisition authority means a GHG injection and storage data acquisition authority.

GHG exploration permit (also called a ***GHG permit***) see section 18(1)(a).

GHG injection and storage data acquisition authority (also called a ***GHG data acquisition authority***) see section 18(1)(c).

GHG injection and storage lease (also called a ***GHG lease***) see section 18(1)(b).

GHG lease means a GHG injection and storage lease.

GHG permit means a GHG exploration permit.

GHG register means the register the chief executive keeps under section 339.

GHG statement see section 196(1)(a).

GHG storage see section 3(2).

GHG storage activity see section 23.

GHG storage exploration see section 15.

GHG storage injection testing see section 16.

GHG storage reservoir see section 13(a).

GHG stream see section 12.

GHG stream pipeline see section 17.

GHG stream storage see section 14.

GHG stream storage site see section 13.

GHG tenure see section 18(2).

GHG viability report see section 245(1).

GHG well—

- 1 A *GHG well* is a hole in the ground made or being made by drilling, boring or any other means—
 - (a) to carry out GHG storage exploration; or
 - (b) for GHG stream storage.
- 2 A *GHG well* includes the casing for the well and any of the following attached to the well—
 - the casing head
 - a casing hanger or spool or tubing hanger
 - flow control equipment up to and including the wing valves.
- 3 To remove any doubt, it is declared that a *GHG well* does not include a seismic shot hole or shallow hole drilled to work out a geological structure.

holder—

- (a) of a GHG authority other than a GHG data acquisition authority, means each person recorded as its holder in the GHG register; or
- (b) of a GHG data acquisition authority, means the person mentioned in section 240.

holder submissions see section 199(1).

independent viability assessment see section 247(2).

information notice, for a decision, means a notice stating each of the following—

- (a) the decision, and the reasons for it;
- (b) the rights of appeal under this Act;

- (c) the period in which any appeal under this Act must be started;
- (d) how rights of appeal under this Act are to be exercised;
- (e) that a stay of a decision the subject of an appeal under this Act may be applied for under this Act.

initial development plan requirements see section 140.

initial work program requirements see section 51.

interfere with includes tamper with.

land includes—

- (a) land covered by Queensland waters; and
- (b) subterranean land.

later development plan requirements see section 150.

later work program requirements see section 58.

mandatory condition, of a GHG authority, see section 20(2).

Mineral Resources Act means the *Mineral Resources Act 1989*.

mining interest means—

- (a) a mining tenement under the Mineral Resources Act; or
- (b) a tenure held from the State under another Act about mining under which tenure the holder is authorised to carry out mining under the Mineral Resources Act or a related mineral or energy resources activity.

mining lease see the Mineral Resources Act, schedule.

noncompliance action means action of a type mentioned in section 379.

notice means a written notice.

notifiable road use, for a GHG authority, see section 301(1).

occupier, of a place, means—

- (a) a person who under an Act, has a right to occupy the place other than under a mining interest, petroleum interest or geothermal exploration permit; or

- (b) a person who has been given a right to occupy the place by a person mentioned in paragraph (a).

on, land or another place, includes across, attached to, in, under or over the land or place.

operating plant see the P&G Act, section 670.

operator, of an operating plant, see the P&G Act, section 673.

overlapping authority see section 183.

overlapping authority application period see section 205(2).

overlapping authority priority see section 199(3)(b).

owner—

- 1 An *owner*, of land, means each person as follows in relation to the land—
- (a) for freehold land—a registered owner;
 - (b) for land for which a person is, or will on performing conditions, be entitled to a deed of grant in fee simple—the person;
 - (c) if an estate in fee simple of land is being purchased from the State—the purchaser;
 - (d) for a public road—the public road authority for the road;
 - (e) for land that is busway land, light rail land, rail corridor land or a cane railway or other railway—the public land authority for the land;
 - (f) for required land under the *Transport Infrastructure Act 1994*, section 436—the chief executive of the department in which that Act is administered;
 - (g) for a forest entitlement area, State forest or timber reserve under the *Forestry Act 1959*—the chief executive of the department in which that Act is administered;

- (h) for a conservation park or resources reserve under the *Nature Conservation Act 1992* (the *NCA*) for which there are trustees—
 - (i) if, under the *NCA*, the park or reserve has trustees whose powers are not restricted—the trustees; or
 - (ii) otherwise—the chief executive of the department in which the *NCA* is administered;
- (i) for *DOGIT* land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*—a trustee for the land;
- (j) for land held under a lease under the *Local Government (Aboriginal Lands) Act 1978*, section 3—a relevant local government;
- (k) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 84(2) or 84(4)(b) of that Act—each grantee of the land;
- (l) for land under the *Land Act 1994* for which there are trustees—a trustee;
- (m) for transport land under the *Transport Planning and Coordination Act 1994*—the chief executive of the department in which that Act is administered;
- (n) for land vested in the Minister administering the *Education (General Provisions) Act 2006*—that Minister;
- (o) for land vested in the Queensland Housing Commission or another Minister or a chief executive responsible for constructing public buildings—the Minister administering the relevant Act;
- (p) for land held from the State under another Act under an interest less than fee simple (other than occupation rights under a permit under the *Land Act 1994*)—the person who holds the interest.

-
- (q) for any of the following land under the NCA—the State—
- (i) a national park;
 - (ii) a national park (Aboriginal land);
 - (iii) a national park (scientific);
 - (iv) a national park (Torres Strait Islander land);
 - (v) a national park (recovery);
 - (vi) a forest reserve.
- 2 Also, a mortgage of land is the *owner* of land if—
- (a) the mortgagee is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or
 - (b) the mortgagee or a person appointed by the mortgagee is in possession of the land and has the exclusive management and control of the land.
- 3 If land or another thing has more than 1 owner, a reference in this Act to the owner of the land or thing is a reference to each of its owners.

P&G Act see section 4.

P&G Act safety provisions see section 4(c).

permit-related application see section 113(3).

petroleum see the P&G Act, section 10.

petroleum authority see the P&G Act, section 18(2).

petroleum discovery includes a discovery of an underground geological formation or structure that under the P&G Act has or is likely to have commercial potential for petroleum.

petroleum interest means any authority (however called) under the P&G Act or a lease under the 1923 Act.

petroleum lease means a petroleum lease under the P&G Act or a lease under the 1923 Act.

petroleum tenure means any ATP or petroleum lease.

pipeline land, for a GHG tenure, means land identified in the instrument for the tenure or the work program or development plan for the tenure as land on which pipelines are or may be constructed or operated under the tenure.

pipeline licence see the P&G Act, section 18(1)(f).

place includes land.

plan period, for a development plan, means the period for which the plan applies.

potential storage area, for a GHG permit, means an area declared under section 102 to be a potential storage area for the permit.

private land—

- 1 *Private land* is—
 - (a) freehold land; or
 - (b) an interest in land less than fee simple held from the State under another Act.
- 2 However, land is not private land to the extent of any of the following interests in relation to the land—
 - (a) a mining interest;
 - (b) a petroleum interest;
 - (c) a geothermal exploration permit;
 - (d) an occupation right under a permit under the *Land Act 1994*;
 - (e) land owned by a public land authority.

program period, for a work program, means the period for which the program applies.

provision, of a GHG authority, means a provision of the authority as defined under section 21.

public interest means a consideration of each of the following—

- (a) government policy;
- (b) environmental impacts;

-
- (c) employment creation;
 - (d) social impacts;
 - (e) the overall economic benefit for the State, or a part of the State, in the short and long term;
 - (f) impacts on aesthetic, amenity or cultural values.

public land means land other than—

- (a) private land; or
- (b) land to the extent that any of the following relate to the land—
 - (i) a mining interest;
 - (ii) a petroleum interest;
 - (iii) a geothermal exploration permit;
 - (iv) an occupation right under a permit under the *Land Act 1994*.

public land authority means—

- (a) for a public road—the road authority for the road; or
- (b) if a local government or other authority is under an Act, charged with the control of the land—the local government or other authority; or
- (c) otherwise—the chief executive of the department administering the Act under which entry to the land is administered.

public road means an area of land that—

- (a) is open to or used by the public; and
- (b) is developed for or has as one of its main uses—
 - (i) the driving or riding of motor vehicles; or
 - (ii) pedestrian traffic; and
- (c) is controlled by a public road authority.

Examples of an area of land that may be included in a road—

- a bridge, culvert, ford, tunnel or viaduct
- a pedestrian or bicycle path

public road authority, for a public road, means—

- (a) for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered; or
- (b) for another public road—the local government having the control of the road.

publish, a notice, means to publish it in any of the following ways—

- (a) in a journal published by the department or under the Minister's authority;
- (b) in another publication the Minister considers appropriate;
- (c) on the department's website;
- (d) by placing it on a public notice board, established and maintained by the department at—
 - (i) the department's head office; and
 - (ii) other places the chief executive considers appropriate.

reasonably believes means to believe on grounds that are reasonable in the circumstances.

registration, for a dealing, means recorded in the GHG register.

relevant arrangement, for chapter 3, part 2, see section 118(1)(f)(ii).

relevant environmental authority, for a GHG authority or proposed GHG authority, means an environmental authority under the Environmental Protection Act granted for all of the authorised activities for the GHG authority or proposed GHG authority that are environmentally relevant activities under that Act.

relevant environmental condition, for a provision about a GHG authority or proposed GHG authority, means a condition of any relevant environmental authority for the GHG authority or proposed GHG authority.

relevant GHG tenure, for a GHG data acquisition authority or proposed GHG data acquisition authority, see section 233(3).

relevant land, for a GHG lease application, means the land the subject of the application.

relevant lease—

- (a) for a GHG lease application—see section 205(2); or
- (b) for a GHG coordination arrangement—see section 186(4).

relinquishment condition, for a GHG permit is the relinquishment condition under section 72(1).

remedial powers see section 356(2).

report means a written report.

required information, for chapter 5, part 4, division 3, see section 260.

required way, for giving the chief executive reports, see section 255(4).

requirements for grant see section 117(1).

resource management decision see section 201.

road use direction see section 303(1).

safety management plan see the P&G Act, schedule 2.

satisfies, the capability criteria—

- (a) for chapter 2—see section 42(3); or
- (b) for chapter 3—see section 118(3).

second authority, for chapter 5, part 9, see section 316(1).

security includes a bond, deposit of an amount as security, guarantee, indemnity or other surety, insurance, mortgage and undertaking.

serious situation see section 363.

serious situation direction see section 364(2).

services of the State has the same meaning that the term has in relation to the State of Queensland under the *Copyright Act 1968* (Cwlth), section 183(1).

share, of a GHG authority, means any interest held by a person as a holder of the authority in all of the area of the authority.

significant project means a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.

special criteria—

(a) for a GHG permit—see section 33(2)(b); or

(b) for a GHG lease—see section 125(2)b).

State-controlled road see *Transport Infrastructure Act 1994*, schedule 6.

storage capacity, of a GHG storage reservoir, means the measure of its potential for GHG stream storage.

storage commencement day, for a GHG lease, see section 120(2)(c).

structure means anything built or constructed, whether or not attached to land.

sub-block see section 26(2).

submission means a written submission.

surrender application see section 174(a).

third party transfer, of a GHG authority, see section 347.

unavailable land—

(a) for a GHG permit—see section 44(4); or

(b) for a GHG lease—see section 135(4).

waiver of entry notice—

(a) for chapter 5, part 7—see section 279(3); or

(b) for chapter 5, part 8—see section 312(3).

Water Act means the *Water Act 2000*.

Water Act Minister means the Minister of the department in which the Water Act is administered.

work program, for a GHG permit, see section 24(1).

work program criteria see section 55(2).

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