



Queensland

Natural Resources and Other Legislation Amendment Act (No. 2) 2010

Act No. 52 of 2010



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Queensland

Natural Resources and Other Legislation Amendment Act (No. 2) 2010

Act No. 52 of 2010

An Act to amend the Alcan Queensland Pty. Limited Agreement Act 1965, the Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957, the Environmental Protection Act 1994, the Geothermal Energy Act 2010, the Holidays Act 1983, the Mineral Resources Act 1989, the Nature Conservation Act 1992, the Petroleum Act 1923, the Petroleum and Gas (Production and Safety) Act 2004, the South Bank Corporation Act 1989, the Vegetation Management Act 1999 and the Water Act 2000, for particular purposes

[Assented to 1 December 2010]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Natural Resources and Other Legislation Amendment Act (No. 2) 2010*.

2 Commencement

This Act, other than part 5, commences on a day to be fixed by proclamation.

Part 2 Amendment of Alcan Queensland Pty. Limited Agreement Act 1965

3 Act amended

This part amends the *Alcan Queensland Pty. Limited Agreement Act 1965*.

4 Amendment of s 2 (Execution of agreement authorised)

Section 2, ‘the schedule to this Act (the *agreement*).’—
omit, insert—

‘schedule 1 (the *agreement*).

Note—

Since the making of the agreement, Alcan Queensland Pty. Limited has changed its name to Alcan South Pacific Pty Ltd.’.

5 Amendment of s 4 (Variation of agreement)

Section 4(1) to (3)—

omit, insert—

- ‘(1) The agreement may be varied only—
- (a) by further agreement between the State and the company; and
 - (b) under the authority of an Act.
- ‘(2) A variation of the agreement purported to be made other than under subsection (1) is of no effect.
- ‘(3) The Minister must notify the date of the making of each further agreement by gazette notice.’.

6 Insertion of new s 4C

Before section 5—

insert—

‘4C Authorisation of variation by further agreement

‘The agreement may be varied by further agreements corresponding to the proposed further agreements set out in schedules 2 and 3.’.

7 Amendment of the schedule (The Agreement)

- (1) The schedule, heading—

omit, insert—

‘Schedule 1 The Agreement

section 2’.

- (2) The schedule, heading, editor’s note, ‘*Editor’s note*’—

omit, insert—

‘*Note*’.

[s 8]

- (3) The schedule—
number as schedule 1.

8 Insertion of new schs 2 and 3

After schedule 1, as numbered—
insert—

‘Schedule 2 Proposed further agreement

section 4C

THIS AGREEMENT is made this ____ day of _____, 20__

BETWEEN STATE OF QUEENSLAND

AND

ALCAN SOUTH PACIFIC PTY LTD (FORMERLY ALCAN QUEENSLAND PTY LIMITED), ACN 009 726 078, Level 2, 443 Queen Street, Brisbane in the State of Queensland (the Company).

BACKGROUND:

1. Under section 2 of the *Alcan Queensland Pty Limited Agreement Act 1965* (the Act), the State and the Company entered into the agreement set out in Schedule 1 of the Act (the Principal Agreement).
2. The Principal Agreement may be varied by agreement between the Minister and the Company if authorised under the Act.
3. The State and the Company wish to vary the Principal Agreement.

IT IS AGREED THAT—

1. The first paragraph of the Recitals of the Principal Agreement is amended by deleting the words “(hereinafter with its successors and permitted assigns called “the Company”);
2. Clause 1 of the Principal Agreement is amended by inserting the following definition – “The Company” means “Alcan South

Pacific Pty Ltd (ACN 009 726 078) (formerly Alcan Queensland Pty Limited) and its successors and assigns”.

3. Clause 1 of the Principal Agreement is amended by—
 - (a) replacing the definition of “Comalco” with the following definition – ‘ “Comalco” means Rio Tinto Aluminium Limited (ACN 009 679 127), RTA Weipa Pty Ltd (ACN 137 266 285), and their successors and assigns;’ and
 - (b) replacing the definition of “the Minister” with the following definition – ‘ “the Minister” means the Minister of the State of Queensland responsible for the administration of the Act;’.
4. Clause 3 of the Principal Agreement is deleted and replaced with new clause 3, which provides—

‘The agreement may be varied only—

 - (a) by further written agreement between the State and the company; and
 - (b) under the authority of the Act.
5. This Agreement comes into effect on and from the date notified by the Minister (being the Minister of the State of Queensland responsible for the administration of the Act) in the Government Gazette or, if no date is specified, on the date of the gazettal.

IN WITNESS WHEREOF the Parties hereto have executed these presents on the day and year aforesaid.

**S I G N E D O N B E H A L F O F T H E S T A T E O F
Q U E E N S L A N D B Y T H E H O N O U R A B L E**
_____,
MINISTER FOR

In the presence of

[s 8]

In the presence of

Executed in accordance with section 127
of the *Corporations Act 2001* by **Alcan**
South Pacific Pty Ltd (ACN 009 726 078):

Director Signature

Director/Secretary signature

Print Name

Print Name

‘Schedule 3 Proposed further agreement

section 4C

THIS AGREEMENT is made this ____ day of _____, 20__

BETWEEN STATE OF QUEENSLAND

AND

ALCAN SOUTH PACIFIC PTY LTD (FORMERLY ALCAN QUEENSLAND PTY. LIMITED), ACN 009 726 078, Level 2, 443 Queen Street, Brisbane in the State of Queensland (the *Company*)

BACKGROUND:

1. Under section 2 of the *Alcan Queensland Pty Limited Agreement Act 1965* (the Act), the State and the Company entered into the agreement set out in Schedule 1 of the Act (the Principal Agreement).

-
2. The Principal Agreement may be varied by agreement between the Minister and the Company if authorised under the Act.
 3. The State and the Company wish to vary the Principal Agreement.

IT IS AGREED THAT—

4. The Principal Agreement is amended by the insertion of the following new clause 29A immediately after clause 29 of the Principal Agreement:

29A. "

- (1) Subclause (2) prevails to the extent of any inconsistency with subclauses 28(a) to (e), 28(g) and clause 29 of the Principal Agreement.
- (2) The Company's right to take or interfere with water, other than artesian water or subartesian water connected to artesian water, in the 'Wenlock Basin wild river area' (as defined in the *Wenlock Basin Wild River Declaration 2010*) is subject to the following specified conditions:
 - (a) the right to take or interfere with water in the Wenlock Basin wild river area is subject to an annual volumetric limit of 90,000 ML (subject to the sum of the annual volumetric limits that may be taken under water licences held by the Company and the holder of mining tenements for a project for which the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957* was enacted, not exceeding 90,000 ML in total);
 - (b) the location from which the water may be taken or at which the water may be interfered with is from sources within or in the vicinity of the bauxite field referred to in clause 28(a); and
 - (c) the period over which the Company may take or interfere with water continues for the term of this Agreement, including any future extensions of term.
- (3) To remove any doubt, it is declared that subclauses (1) and (2) do not limit:
 - (a) the rights of the Company under subclauses 28(a) to (e), 28(g) and clause 29 of the Principal Agreement to take

[s 8]

or interfere with water outside the Wenlock Basin wild river area; or

- (b) the Company's right to take or interfere with artesian water or subartesian water connected to artesian water in the Wenlock Basin wild river area.

5. This Agreement comes into effect on and from the date notified by the Minister (being the Minister for the State of Queensland responsible for the administration of the Act) in the Government Gazette or, if no date is specified, on the date of the gazettal.

IN WITNESS WHEREOF the Parties hereto have executed these presents on the day and year aforesaid.

S I G N E D ON BEHALF OF THE STATE OF QUEENSLAND BY THE HONOURABLE

_____,
MINISTER FOR

In the presence of

Executed in accordance with section 127
of the *Corporations Act 2001* by **Alcan**
South Pacific Pty Ltd (ACN 009 726 078):

Director Signature

Director/Secretary signature

Print Name

Print Name'

[s 12]

12 Insertion of new s 4C

Before section 5—

insert—

‘4C Authorisation of variation by further agreement

‘The agreement may be varied by further agreements corresponding to the proposed further agreements set out in schedules 2 and 3.’.

13 Amendment of schedule

(1) Schedule, heading—

omit, insert—

‘Schedule The agreement

section 2

Note—

Consistent with the provisions of the Act, this schedule contains only the proposed agreement authorised to be entered into by the Act as originally enacted. It does not purport to be either the agreement actually entered into or that agreement as amended from time to time.’.

(2) Schedule—

number as schedule 1.

14 Insertion of new schs 2 and 3

After schedule 1, as numbered—

insert—

‘Schedule 2 Proposed further agreement

section 4C

THIS AGREEMENT is made the ____ day of _____, 20__

BETWEEN STATE OF QUEENSLAND

AND

RTA WEIPA PTY LTD, ACN 137 266 285, Level 2, 443 Queen Street, Brisbane in the State of Queensland (RTA Weipa)

AND

RIO TINTO ALUMINIUM LIMITED (FORMERLY COMMONWEALTH ALUMINIUM CORPORATION PTY LIMITED and COMALCO ALUMINIUM LIMITED), ACN 009 679 127, Level 2, 443 Queen Street, Brisbane in the State of Queensland (RTAL)

BACKGROUND:

1. Under section 2 of the *Commonwealth Aluminium Corporation Pty Limited Agreement Act 1957* (the Act), the State and RTAL entered into an agreement on 16 December 1957, which has been amended from time to time (the Principal Agreement).
2. Governor in Council approval has been obtained for the assignment of the benefits and obligations of the Principal Agreement from RTAL to RTA Weipa.
3. Upon the assignment of the Principal Agreement from RTAL to RTA Weipa, the State, RTAL and RTA Weipa have agreed to vary the Principal Agreement further in accordance with the Act to enable some of the clauses of the Principal Agreement to continue to apply to RTAL as well as to RTA Weipa.

IT IS AGREED THAT—

1. Clause 1 of the Principal Agreement is amended to include the following definitions—
 - (a) ‘ “RTA Weipa” means RTA Weipa Pty Ltd (ACN 137 266 285), ‘its successors and assigns;’ and
 - (b) “ “RTAL” means Rio Tinto Aluminium Limited (ACN 009 679 127), its successors and assigns;’.
2. Clause 1 of the Principal Agreement is amended by replacing the definition of “the Minister” with the following definition—‘ “the Minister” means the Minister of the State of Queensland responsible for the administration of the Act;’.

3. Clause 3 of the Principal Agreement is deleted and replaced with new clause 3, which provides:
 - ‘(1) The agreement may be varied only—
 - (a) by further written agreement between the State and the company; and
 - (b) under the authority of the Act.
4. Immediately upon the assignment of the Principal Agreement from RTAL to RTA Weipa becoming effective, the Principal Agreement is amended by the insertion of the following new clause 66 immediately after clause 65 of the Principal Agreement:
 - ‘66. In addition to RTA Weipa, the following clauses of this Agreement will continue to apply to RTAL and a reference to the term “the Company” in those clauses is to be construed accordingly—
 - (a) Clause 18;
 - (b) Clause 27;
 - (c) Clause 48;
 - (d) Clause 49;
 - (e) Clause 52
 - (f) Clause 55;
 - (g) Clause 59;
 - (h) Clause 60; and
 - (i) Clause 62.’.
5. RTAL will notify the Minister in writing when the assignment of the Principal Agreement from RTAL to RTA Weipa becomes effective.
6. This Agreement comes into effect on and from the date notified by the Minister (being the Minister of the State of Queensland responsible for the administration of the Act) in the Government Gazette or, if no date is specified, on the date of the gazettal.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as at the day and year first above written.

**S I G N E D ON BEHALF OF THE STATE OF
QUEENSLAND BY THE HONOURABLE**

MINISTER FOR

In the presence of

In the presence of

Executed in accordance with section 127 of the *Corporations Act 2001* by
RTA Weipa Pty Ltd (ACN 137 266 285):

Witness Signature

Signature

Print Name

Executed in accordance with section 127 of the *Corporations Act 2001* by
Rio Tinto Aluminium Limited (ACN 009 679 127):

Director Signature

Director/Secretary signature

Print Name

Print Name

‘Schedule 3 Proposed further agreement

section 4C

THIS AGREEMENT is made the ____ day of _____, 20__

BETWEEN STATE OF QUEENSLAND

AND

RTA WEIPA PTY LTD, ACN 137 266 285, Level 2, 443 Queen Street, Brisbane in the State of Queensland (RTA Weipa)

AND

RIO TINTO ALUMINIUM LIMITED (FORMERLY COMMONWEALTH ALUMINIUM CORPORATION PTY LIMITED and COMALCO ALUMINIUM LIMITED), ACN 009 679 127, Level 2, 443 Queen Street, Brisbane in the State of Queensland (RTAL)

BACKGROUND:

1. Under section 2 of the *Commonwealth Aluminium Corporation Pty Limited Agreement Act 1957* (the Act), the State and RTAL entered into an agreement on 16 December 1957, which has been amended from time to time (the Principal Agreement).
2. The State, RTA Weipa and RTAL have agreed to amend the Principal Agreement in accordance with the Act to vary the authorisation for RTA Weipa and RTAL to take or interfere with water in the Wenlock Basin wild river area, other than artesian water or subartesian water connected to artesian water.

IT IS AGREED THAT—

3. The Principal Agreement is amended by the insertion of the following new clause 32A immediately after clause 32 of the Principal Agreement:
32A. "

-
- (1) Subclause (2) prevails to the extent of any inconsistency with subclauses 31(a) to (e), 31 (g) and clause 32 of the Principal Agreement.
 - (2) RTA Weipa's and RTAL's right to take or interfere with water, other than artesian water or subartesian water connected to artesian water, in the 'Wenlock Basin wild river area' (as defined in the *Wenlock Basin Wild River Declaration 2010*) is subject to the following specified conditions:
 - (a) the right to take or interfere with water in the Wenlock Basin wild river area is subject to an annual volumetric limit of 90,000 ML (subject to the sum of the annual volumetric limit that may be taken under water licences held by RTA Weipa and RTAL and the holder of mining tenements for a project for which the *Alcan Queensland Pty. Limited Agreement Act 1965* was enacted, not exceeding 90,000 ML in total);
 - (b) the location from which the water may be taken or at which the water may be interfered with is from sources within or in the vicinity of the western bauxite field referred to in clause 31(a); and
 - (c) the period over which RTA Weipa and RTAL may take or interfere with water continues for the term of this Agreement, including any future extensions of term.
 - (3) To remove any doubt, it is declared that subclauses (1) and (2) do not limit:
 - (a) the rights of RTA Weipa and RTAL under subclauses 31(a) to (e), 31(g) and clause 32 of the Principal Agreement to take or interfere with water outside the Wenlock Basin wild river area; or
 - (b) RTA Weipa's and RTAL's right to take or interfere with artesian water or subartesian water connected to artesian water in the Wenlock Basin wild river area.
 4. This Agreement comes into effect on and from the date notified by the Minister (being the Minister for the State of Queensland responsible for the administration of the Act) in the Government Gazette or, if no date is specified, on the date of the gazettal.

[s 14]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as at the day and year first written above.

**S I G N E D ON BEHALF OF THE STATE OF
QUEENSLAND BY THE HONOURABLE**

_____,
MINISTER FOR

In the presence of

Executed in accordance with section 127
of the *Corporations Act 2001* by
RTA Weipa Pty Ltd (ACN 137 266 285):

Witness Signature

Signature

Print Name

Executed in accordance with section 127
of the *Corporations Act 2001* by
Rio Tinto Aluminium Limited (ACN
009 679 127):

Director Signature

Director/Secretary signature

Print Name

Print Name’.

Part 4 Amendment of Environmental Protection Act 1994

15 Act amended

This part amends the *Environmental Protection Act 1994*.

16 Insertion of new s 312W

Chapter 5A, part 9—

insert—

‘312W Statutory conditions of environmental authority (chapter 5A activities)

‘(1) An environmental authority (chapter 5A activities) is taken to include a condition prohibiting the use of restricted stimulation fluids.

Example—

the use of hydrocarbon chemicals to stimulate the fracturing of coal seams

‘(2) In this section—

restricted stimulation fluids means fluids used for the purpose of stimulation, including fracturing, that contain the following chemicals in more than the maximum amount prescribed under a regulation—

(a) petroleum hydrocarbons containing benzene, ethylbenzene, toluene, or xylene;

[s 17]

- (b) chemicals that produce, or are likely to produce, benzene, ethylbenzene, toluene or xylene as the chemical breaks down in the environment.’

17 Insertion of new ch 7, pt 1, div 1, hdg

Chapter 7, part 1, before section 319—

insert—

‘Division 1 Duty to prevent and minimise environmental harm’.

18 Replacement of s 320 (Duty to notify environmental harm)

Section 320—

omit, insert—

‘Division 2 Duty to notify of environmental harm

‘Subdivision 1 Preliminary

‘320 Definitions for div 2

‘In this division—

affected land means land on which an event has caused or threatens serious or material environmental harm.

employer see section 320B(1).

occupier, of affected land, means a person who lives or works on the affected land.

primary activity see section 320A(1).

public notice means a notice given in the way, and under the circumstances, prescribed under a regulation.

Example—

a radio or television broadcast

registered owner, of affected land, means—

- (a) the registered owner of the land under the *Land Title Act 1994*; or
- (b) the lessee of the land under the *Land Act 1994*.

‘320A Application of div 2

‘(1) This division applies if a person—

- (a) while carrying out an activity (the **primary activity**), becomes aware that an event has happened that causes or threatens serious or material environmental harm because of the person’s or someone else’s act or omission in carrying out the primary activity or another activity being carried out in association with the primary activity; or
- (b) while carrying out a chapter 5A activity (also the **primary activity**), becomes aware of the happening of 1 or both of the following events—
 - (i) the activity has negatively affected, or is reasonably likely to negatively affect, the water quality of an aquifer;
 - (ii) the activity has caused the connection of 2 or more aquifers.

‘(2) However, this division does not apply if the event is authorised to be caused under—

- (a) an environmental protection policy; or
- (b) a transitional environmental program; or
- (c) an environmental protection order; or
- (d) an environmental authority; or
- (e) a development condition of a development approval; or

[s 18]

- (f) a standard environmental condition of a code of environmental compliance for a chapter 4 activity; or
- (g) an emergency direction; or
- (h) an accredited ERMP.

‘Subdivision 2 Duty of person carrying out an activity

‘320B Duty of employee to notify employer

- ‘(1) This section applies if the person is carrying out the primary activity during the person’s employment or engagement by, or as the agent of, someone else (the *employer*).
- ‘(2) The person must, no later than 24 hours after becoming aware of the event and unless the person has a reasonable excuse—
 - (a) notify the employer of the event, its nature and the circumstances in which it happened; or
 - (b) if the employer can not be contacted—give the administering authority written notice of the event, its nature and the circumstances in which it happened.

Maximum penalty—100 penalty units.

‘320C Duty of other persons to notify particular owners and occupiers

- ‘(1) This section applies if the person is not carrying out the primary activity during the person’s employment or engagement by, or as the agent of, someone else.
- ‘(2) The person must, no later than 24 hours after becoming aware of the event and unless the person has a reasonable excuse, give the administering authority written notice of the event, its nature and the circumstances in which it happened.

Maximum penalty—

-
- (a) for an event mentioned in section 320A(1)(a)—500 penalty units; and
 - (b) for an event mentioned in section 320A(1)(b)—100 penalty units.
- ‘(3) The person must, as soon as reasonably practicable after becoming aware of the event and unless the person has a reasonable excuse, give—
- (a) written notice of the event, its nature and the circumstances in which it happened to any combination of the following for the affected land—
 - (i) any occupier of the affected land;
 - (ii) any registered owner of the affected land; or
 - (b) public notice of the event, its nature and the circumstances in which it happened to persons on the affected land.
- Maximum penalty—
- (a) for an event mentioned in section 320A(1)(a)—500 penalty units; and
 - (b) for an event mentioned in section 320A(1)(b)—100 penalty units.

‘Subdivision 3 Duty of employer

‘320D Duty of employer to notify particular owners and occupiers

- ‘(1) This section applies if the employer has been notified under section 320B(2) of the event.
- ‘(2) The employer must, no later than 24 hours after becoming aware of the event and unless the employer has a reasonable excuse, give the administering authority written notice of the event, its nature and the circumstances in which it happened.

Maximum penalty—

[s 18]

- (a) for an event mentioned in section 320A(1)(a)—500 penalty units; and
 - (b) for an event mentioned in section 320A(1)(b)—100 penalty units.
- ‘(3) The employer must, as soon as reasonably practicable after becoming aware of the event and unless the person has a reasonable excuse, give—
- (a) written notice of the event, its nature and the circumstances in which it happened to any combination of the following for the affected land—
 - (i) any occupier of the affected land;
 - (ii) any registered owner of the affected land; or
 - (b) public notice of the event, its nature and the circumstances in which it happened to persons at the affected land.

Maximum penalty—

- (a) for an event mentioned in section 320A(1)(a)—500 penalty units; and
- (b) for an event mentioned in section 320A(1)(b)—100 penalty units.

‘Subdivision 4 Miscellaneous

‘320E Notice to occupiers of affected land

- ‘(1) Without limiting the ways in which a person or employer may give written notice to an occupier of affected land under this division, a person or employer is taken to have given written notice under this division to an occupier of affected land if the notice is—
- (a) left with someone who is apparently an adult living or working on the affected land; or

-
- (b) if there is no-one on the affected land or the person has been denied access to the affected land—left on the affected land in a position where it is reasonably likely to come to the occupier’s attention; or
 - (c) posted to the affected land.
- ‘(2) Written notice that is posted to, or left at, affected land may be addressed to ‘The Occupier’.

‘320F Defences and excuses for div 2

- ‘(1) In a proceeding for an offence against a provision of this division, it is a defence for a person or employer to prove that, despite failing to comply with the provision, the person or employer made reasonable efforts to identify the affected land and give written notice to each registered owner or occupier of the affected land.
- ‘(2) It is not a reasonable excuse for a person or employer to fail to comply with an obligation under this division on the ground that the written notice, or the giving of the written notice, might tend to incriminate the person or employer.

‘320G Use of notice in legal proceedings

- ‘(1) A written notice given by a person or employer under this division is not admissible in evidence against the person or employer in a prosecution for an offence against this Act that is constituted by the act or omission that caused the event under the notice.
- ‘(2) This section does not prevent other evidence obtained because of the written notice, or the giving of the written notice, being admitted in any legal proceeding against the person or employer.’.

19 Amendment of s 616D (Changing conditions of transitional authority (SAA))

Section 616D(3)(a), ‘section 616H(b)’—

[s 20]

omit, insert—

‘section 616H(1)(b)’.

20 Amendment of s 616H (Requirement to apply for new authority or amend etc. transitional authority (SAA))

(1) Section 616H(c)—

omit, insert—

‘(c) the surrender of the transitional authority (SAA); or

(d) the transfer of the transitional authority (SAA) to an entity other than a wholly owned subsidiary of the holder of the authority within the meaning of the Corporations Act.’.

(2) Section 616H, note, ‘this section’—

omit, insert—

‘subsection (1)’.

(3) Section 616H, after note—

insert—

‘(2) To remove any doubt, it is declared that the transfer of a transitional authority (SAA) to a wholly owned subsidiary of the holder of the authority within the meaning of the Corporations Act does not constitute compliance with the obligation under subsection (1).’.

21 Amendment of s 616M (End of transitional authority (SAA))

(1) Section 616M(1)(a), ‘section 616H’—

omit, insert—

‘section 616H(1)’.

(2) Section 616M(2)—

omit, insert—

- ‘(2) However, despite subsection (1)(c), if a transitional authority (SAA) is transferred under chapter 5, part 9 to a wholly owned subsidiary of the holder of the authority within the meaning of the Corporations Act, the authority does not end.
- ‘(3) To remove any doubt, it is declared that subsection (1) does not limit chapter 5, part 12.’.

22 Amendment of s 616N (Application of sdiv 5)

Section 616N, ‘section 616H(a)’—

omit, insert—

‘section 616H(1)(a)’.

23 Amendment of s 616R (Application of sdiv 6)

Section 616R, ‘section 616H(b)’—

omit, insert—

‘section 616H(1)(b)’.

Part 5 Amendment of Geothermal Energy Act 2010

24 Act amended

This part amends the *Geothermal Energy Act 2010*.

25 Amendment of s 464 (Insertion of new pt 19, div 13, sdiv 2)

- (1) Section 464, inserted section 780(2)(b), ‘that the holder started before the commencement’—

omit, insert—

‘stated in the notice’.

[s 25]

- (2) Section 464, inserted section 780(3), from ‘subsection (2)—’—

omit, insert—

‘subsection (2) is taken to be an entry notice for schedule 1.’.

- (3) Section 464, inserted section 781(1)—

omit, insert—

- ‘(1) This section applies—

(a) for the holder of an exploration permit or mineral development licence holder if the holder has given a converted entry notice; and

(b) until the earlier of the following to happen—

(i) the day that is 6 months after the relevant anniversary day for the exploration permit or mineral development licence;

(ii) 1 September 2011.’.

- (4) Section 464, inserted section 781(2), after ‘notice’—

insert—

‘, including any renewed term,’.

- (5) Section 464, inserted section 781(3)—

omit.

- (6) Section 464, inserted section 781(4)—

insert—

‘**relevant anniversary day**, for an exploration permit or mineral development licence, means the anniversary of the grant of the permit or licence that first occurs after the commencement of this section.’.

- (7) Section 464, inserted section 781(4)—

renumber as section 781(3).

Editor’s note—

Legislation ultimately amended—

- *Mineral Resources Act 1989*

26 Amendment of s 465 (Insertion of new sch 1)

Section 465, inserted schedule 1, section 13(4), definition *compensatable effect*—

omit, insert—

'compensatable effect means all or any of the following—

- (a) all or any of the following relating to the eligible claimant's land—
 - (i) deprivation of possession of its surface;
 - (ii) diminution of its value;
 - (iii) diminution of the use made or that may be made of the land or any improvement on it;
 - (iv) severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
 - (v) any cost, damage or loss arising from the carrying out of activities under the exploration tenement on the land;
- (b) accounting, legal or valuation costs the claimant necessarily and reasonably incurs to negotiate or prepare a conduct and compensation agreement, other than the costs of a person facilitating an ADR;

Examples of negotiation—

an ADR or conference

- (c) consequential damages the eligible claimant incurs because of a matter mentioned in paragraph (a) or (b).'

Editor's note—

Legislation ultimately amended—

- *Mineral Resources Act 1989*

‘140A Obligation to consult with particular owners and occupiers

- ‘(1) An exploration 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 proposed to be carried out or are being carried out.
- ‘(2) The consultation must be about—
- (a) access; and
 - (b) the carrying out of authorised activities for the exploration permit (including, for example, crossing access land for the permit) to the extent they relate to the owners and occupiers; and
 - (c) the exploration permit holder’s compensation liability to the owners or occupiers.

Note—

For the holder’s compensation liability, see schedule 1, section 13(2).’.

31 Insertion of new s 193A

After section 193—

insert—

‘193A Obligation to consult with particular owners and occupiers

- ‘(1) A mineral development licence 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 licence are proposed to be carried out or are being carried out.
- ‘(2) The consultation must be about—
- (a) access; and
 - (b) the carrying out of authorised activities for the mineral development licence (including, for example, crossing access land for the licence) to the extent they relate to the owners and occupiers; and

[s 32]

- (c) the mineral development licence holder's compensation liability to the owners or occupiers.

Note—

For the holder's compensation liability, see schedule 1, section 13(2).'

32 Replacement of s 397 (Liability of owner restricted)

Section 397—

omit, insert—

'397 Limitation of owner's or occupier's tortious liability for authorised activities

- '(1) This section applies to an owner or occupier of land in the area of a mining tenement if—
 - (a) someone else carries out an authorised activity for a mining tenement on the land; or
 - (b) someone else carries out an activity on the land and, in doing so, purports to be carrying out an authorised activity for a mining tenement.
- '(2) The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity.
- '(3) However, subsection (2) does not apply to the extent the owner or occupier, or someone else authorised by the owner or occupier, caused, or contributed to, the harm the subject of the claim.
- '(4) This section applies—
 - (a) despite any other Act or law; and
 - (b) even though this Act or the mining tenement prevents or restricts the carrying out of the activity as an authorised activity for the mining tenement.
- '(5) Subject to subsection (2), in this section, the terms *claim*, *damages* and *harm* have the same meaning that they have under the *Civil Liability Act 2003*.

‘397A Duty to avoid interference in carrying out authorised activities

‘A person who carries out an authorised activity for a mining tenement 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.

‘397B Obstruction of mining tenement holder

‘(1) A person must not, without reasonable excuse, obstruct a mining tenement holder from—

- (a) entering or crossing land to carry out an authorised activity for the mining tenement if schedule 1, parts 2 to 6, to the extent the parts are relevant, have been complied with in relation to the entry; or
- (b) carrying out an authorised activity for the mining tenement on the land.

Maximum penalty—500 penalty units.

‘(2) If a person has obstructed a mining tenement 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 or resist.’

-
- (i) authorised under a notification under the *Fire and Rescue Service Act 1990*, section 63 or a permit granted under section 65(2) of that Act; and
 - (ii) necessary to reduce hazardous fuel load; or
 - (e) the plant is taken under a development approval—
 - (i) for work that includes the clearing of native vegetation under the *Vegetation Management Act 1999*; and
 - (ii) for which taking the plant was assessed under a regional vegetation management code or concurrence agency policy; or
 - (f) the taking of the plant is authorised under a land management agreement under the *Land Act 1994*; or
 - (g) each of the following applies—
 - (i) the plant is least concern wildlife;
 - (ii) the plant is taken other than under a relevant development activity;
 - (iii) taking the plant, other than under a relevant development activity, is not assessable development; or
 - (h) the plant is taken under—
 - (i) a conservation plan applicable to the plant; or
 - (ii) a licence, permit or other authority issued or given under a regulation; or
 - (iii) an exemption under a regulation.’.

(2) Section 89(5)—

insert—

‘**assessable development** see the *Sustainable Planning Act 2009*, schedule 3.

building means a fixed structure that is wholly or partly enclosed by walls.

[s 34]

concurrency agency policy see the *Vegetation Management Act 1999*, section 10A(3).

development approval see the *Sustainable Planning Act 2009*, schedule 3.

regional vegetation management code see the *Vegetation Management Act 1999*, section 11.

relevant development activity means—

- (a) a mining activity or a chapter 5A activity under the *Environment Protection Act 1994*; or
- (b) geothermal exploration or any activity related to the extraction or production of geothermal energy, carried out under a geothermal exploration permit under the *Geothermal Exploration Act 2004*; or
- (c) either of the following—
 - (i) an activity under the *Electricity Act 1994*, section 101 or 112A;
 - (ii) an electricity entity under that Act otherwise clearing, lopping or pruning trees under that Act; or
- (d) for a State-controlled road under the *Transport Infrastructure Act 1994*—
 - (i) road works carried out on the State-controlled road; or
 - (ii) ancillary works and encroachments constructed, maintained, operated or conducted on the State-controlled road under section 50 of that Act; or
- (e) clearing, for routine transport corridor management and safety purposes, on existing rail corridor land, new rail corridor land, non-rail corridor land or commercial corridor land (within the meaning of the *Transport Infrastructure Act 1994*) that is not leased on a commercial basis.’.

[s 37]

- ‘(3) The publication may relate to more than 1 notice.
- ‘(4) The chief executive may give the approval only if satisfied—
 - (a) if the notice is required to be given before an authorised activity is carried out—the publication is reasonably likely to adequately inform the owner or occupier of affected land at least 10 business days before the authorised activity is carried out; or
 - (b) if the notice is required to be given after an authorised activity is carried out—the publication is reasonably likely to adequately inform the owner or occupier of affected land.
- ‘(5) If the chief executive approves the giving of the notice under subsection (2)—
 - (a) the notice may state where a copy of further information referred to in the publication may be obtained, or inspected, free of charge; and
 - (b) the holder is not required to comply with section 76G(4).
- ‘(6) In this section—
affected land means land on which an authorised activity is, or has been, carried out.

‘76GB Copy of particular notices for chief executive (environment)

- ‘(1) This section applies if—
 - (a) a regulation requires a 1923 Act petroleum tenure holder to lodge a notice under section 76G(1)(b); and
 - (b) the 1923 Act petroleum tenure holder lodges the notice as required.
- ‘(2) The chief executive must give the chief executive (environment) a copy of the notice.
- ‘(3) In this section—

chief executive (environment) means the chief executive of the department in which the *Environmental Protection Act 1994* is administered.’.

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

38 Act amended

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

39 Amendment of s 553 (Power to require information or reports about authorised activities to be kept or given)

(1) Section 553(4) and (5)—

renumber as section 553(5) and (6).

(2) Section 553—

insert—

‘(4) A copy of a notice under subsection (1)(b) must be given to both the owners and occupiers of affected land in the way and at the times prescribed under a regulation.’.

(3) Section 553(6), as renumbered—

insert—

‘*affected land* means land on which an authorised activity is, or has been, carried out.’.

40 Insertion of new ss 553A and 553B

Chapter 5, part 7—

insert—

[s 40]

‘553A Giving copy of required notice by publication

- ‘(1) This section applies if, under section 553(4), a regulation requires a petroleum authority holder to give owners and occupiers of affected land a copy of a notice about authorised activities carried out under the petroleum authority.
- ‘(2) The chief executive may approve the petroleum authority holder giving the notice by publishing it in a stated way.
- ‘(3) The publication may relate to more than 1 notice.
- ‘(4) The chief executive may give the approval only if satisfied—
 - (a) if the notice is required to be given before an authorised activity is carried out—the publication is reasonably likely to adequately inform the owner or occupier of affected land at least 10 business days before the authorised activity is carried out; or
 - (b) if the notice is required to be given after an authorised activity is carried out—the publication is reasonably likely to adequately inform the owner or occupier of affected land.
- ‘(5) If the chief executive approves the giving of the notice under subsection (2)—
 - (a) the notice may state where a copy of further information referred to in the publication may be obtained, or inspected, free of charge; and
 - (b) the holder is not required to comply with section 553(4).
- ‘(6) In this section—
affected land means land on which an authorised activity is, or has been, carried out.

‘553B Copy of particular notices for chief executive (environment)

- ‘(1) This section applies if—
 - (a) a regulation requires a petroleum authority holder to lodge a notice under section 553(1)(b); and

- (b) the petroleum authority holder lodges the notice as required.
- ‘(2) The chief executive must give the chief executive (environment) a copy of the notice.
- ‘(3) In this section—
chief executive (environment) means the chief executive of the department in which the *Environmental Protection Act 1994* is administered.’.

Part 11 **Amendment of South Bank Corporation Act 1989**

41 **Act amended**

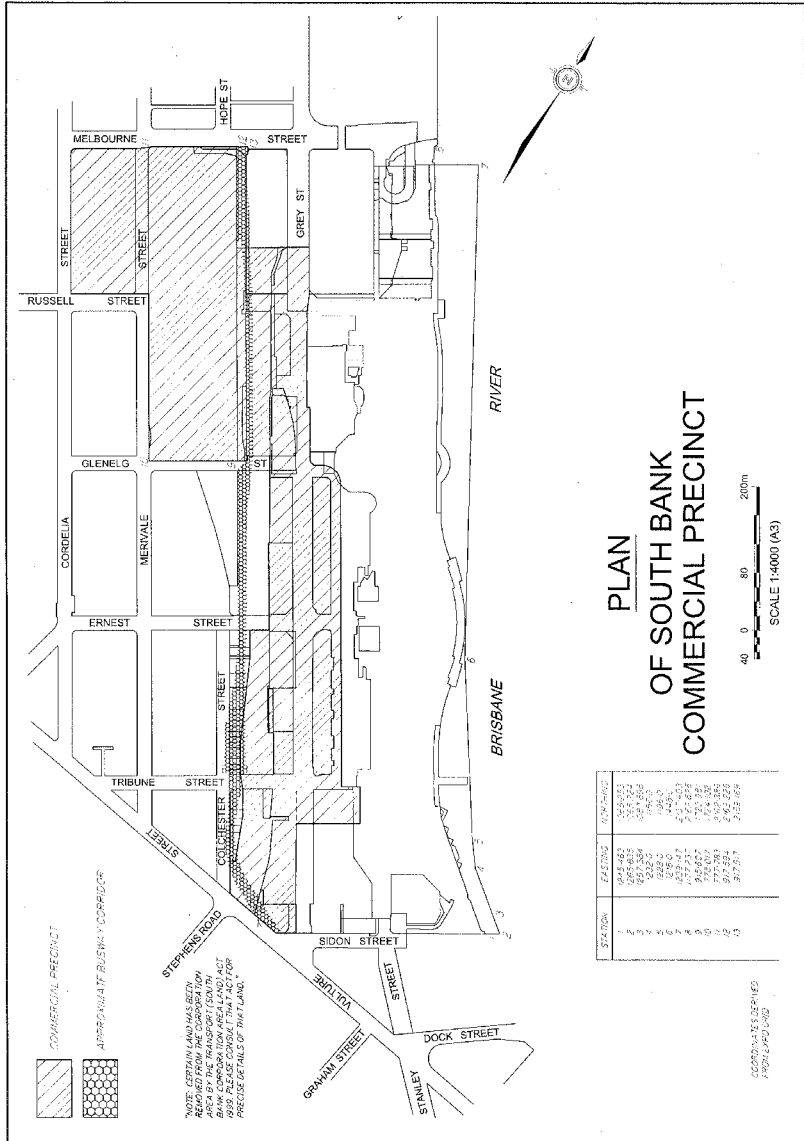
This part amends the *South Bank Corporation Act 1989*.

42 **Amendment of sch 15 (Commercial precinct)**

Schedule 15, plan 1—
omit, insert—

[s 42]

'Plan 1



Part 12 Amendment of Vegetation Management Act 1999

43 Act amended

This part amends the *Vegetation Management Act 1999*.

44 Amendment of s 11 (Minister must make regional vegetation management codes)

(1) Section 11(2)—

omit, insert—

‘(2) A regional vegetation management code may provide for the protection of—

(a) the habitat of native wildlife prescribed under the Nature Conservation Act as endangered, vulnerable or near threatened wildlife (*protected wildlife*); or

(b) a plant that is protected wildlife or least concern wildlife; or

(c) the breeding place of an animal that is protected wildlife or least concern wildlife.’.

(2) Section 11(3), ‘subsection (2)’—

omit, insert—

‘subsection (2)(a)’.

(3) Section 11—

insert—

‘(5) In this section—

breeding place, of an animal, means a bower, burrow, cave, hollow, nest or other place or thing that is commonly used by the animal to incubate or rear the animal’s offspring.

least concern wildlife means native wildlife prescribed under the Nature Conservation Act as least concern wildlife.’.

[s 45]

45 Amendment of s 20AH (Deciding to show particular areas as remnant vegetation)

Section 20AH—

insert—

- ‘(i) the chief executive has been given an area management clearing notification for the area and the purpose of clearing vegetation in the area is for—
- (i) fodder harvesting; or
 - (ii) thinning; or
 - (iii) clearing of encroachment; or
 - (iv) control of non-native plants or declared pests.’.

46 Amendment of s 20CA (Process before making PMAV)

Section 20CA(2)—

insert—

- ‘(e) an area management clearing notification for the area has been received and the purpose of clearing was other than clearing vegetation in the area for—
- (i) fodder harvesting; or
 - (ii) thinning; or
 - (iii) clearing of encroachment; or
 - (iv) control of non-native plants or declared pests.’.

47 Insertion of new pt 2, div 5B

Part 2—

insert—

‘Division 5B Area management plans

‘Subdivision 1 Preliminary

‘20I Definitions for div 5B

‘In this division—

accredited existing planning document means an existing planning document accredited under section 20O(3)(a).

approved draft plan means a draft plan approved under section 20O(1)(a).

area management plan see section 20J.

draft plan see section 20M(3)(a)(i).

existing planning document see section 20K.

owner, of land, includes—

- (a) for trust land under the *Land Act 1994*—a trustee of the land; or
- (b) for a State-controlled road under the *Transport Infrastructure Act 1994*—the chief executive of the department in which that Act is administered; or
- (c) for a road controlled by a local government under the *Local Government Act 2009*—the local government.

plan area, for an area management plan, means the area to which the plan relates.

proposed area—

- (a) for a draft plan—see section 20O(2)(a); or
- (b) for an existing planning document—see section 20O(3)(a).

restricted (fodder harvesting) land see section 20L.

[s 47]

‘20J What is an *area management plan*

- ‘(1) An *area management plan* is—
- (a) a draft area management plan that is approved as an area management plan under section 200(1)(a); or
 - (b) an existing planning document that is accredited as an area management plan under section 200(3)(a).
- ‘(2) However, if an area management plan is amended by the chief executive under section 20ZB, the *area management plan* is the plan as amended.
- ‘(3) Also, if an amendment of an area management plan is approved under section 20ZC, the *area management plan* is the amended plan as approved under that section.

‘20K What is an *existing planning document*

‘An *existing planning document* is any of the following—

- (a) a conservation agreement under the Nature Conservation Act;
- (b) an accredited environmental risk management plan under the *Environmental Protection Act 1994*, chapter 4A;
- (c) a plan for managing declared pests on State-controlled land under the *Land Protection (Pest and Stock Route Management) Act 2002*, chapter 2, part 3;
- (d) a local government’s pest management plan under the *Land Protection (Pest and Stock Route Management) Act 2002*, chapter 2, part 4 or stock route network management plan under chapter 3, part 3 of that Act;
- (e) a land management agreement under the *Land Act 1994*;
- (f) another document that provides for clearing vegetation and is prescribed under a regulation.

‘20L What is restricted (fodder harvesting) land

- ‘(1) *Restricted (fodder harvesting) land* is—
- (a) a State-controlled road under the *Transport Infrastructure Act 1994*; or
 - (b) a road controlled by a local government under the *Local Government Act 2009*; or
 - (c) trust land under the *Land Act 1994*.
- ‘(2) However, *restricted (fodder harvesting) land* does not include indigenous land.

‘Subdivision 2 Approval of plans and accreditation of planning documents

‘20M Application for approval of draft plan or accreditation of planning document

- ‘(1) An entity or a group of entities may apply to the chief executive to approve a draft area management plan or accredit an existing planning document for an area.

Examples of entities who may apply—

- an owner, or a group of owners, of land in the area
- an organisation whose main function involves managing land in the area

- ‘(2) The application must—
- (a) be in the approved form; and
 - (b) be signed by—
 - (i) the applicant; or
 - (ii) if there are 2 or more applicants, at least 1 applicant; and
 - (c) relate only to a single or contiguous area; and

[s 47]

- (d) show that the applicant has given, or taken reasonable steps to give, notice of the application to each owner of land in the area.
- ‘(3) The application must also be accompanied by—
 - (a) either—
 - (i) the draft area management plan (the *draft plan*); or
 - (ii) a copy of the existing planning document; and
 - (b) the fee prescribed under a regulation.
- ‘(4) However, the chief executive may waive the fee if the chief executive considers the waiver is in the interest of the State.

‘20N Further information or documents for application

- ‘(1) Before deciding the application, the chief executive may ask the applicant for further information or a document the chief executive reasonably requires to decide the application.
- ‘(2) If the chief executive asks for information or a document under subsection (1)—
 - (a) the applicant must give the chief executive the information or document within—
 - (i) 30 business days after the request is made; or
 - (ii) a longer period, if agreed to by the chief executive; and
 - (b) the chief executive may stop considering the application until the information or document is given.

‘200 Deciding applications

- ‘(1) The chief executive must decide an application for approval of a draft plan by—
 - (a) approving the draft plan as an area management plan; or
 - (b) refusing to approve the draft plan.
- ‘(2) For approving the draft plan, the chief executive may—

-
- (a) approve the draft plan as the area management plan for the area (the *proposed area*) to which the draft plan relates; or
 - (b) approve the draft plan as the area management plan for part of the proposed area; or
 - (c) approve the draft plan under paragraph (a) or (b) and impose an additional condition on the area management plan.
- ‘(3) The chief executive must decide an application for accreditation of an existing planning document by—
- (a) accrediting the document as an area management plan for the area (also the *proposed area*) to which the document relates; or
 - (b) refusing to accredit the document.

‘20P Criteria for approving draft plan or accrediting planning document

‘The chief executive may approve a draft plan or accredit an existing planning document only if the chief executive is satisfied—

- (a) the application for approval of the plan or accreditation of the document is properly made under section 20M; and
- (b) the plan or document includes enough information to allow the chief executive to map the boundary of—
 - (i) the proposed area; and
 - (ii) if the conditions for clearing vegetation relate to different zones within the proposed area—each of the zones; and
- (c) the plan or document states—
 - (i) the management intent and management outcomes for vegetation management in the proposed area; and

[s 47]

- (ii) the conditions for clearing vegetation in the proposed area to achieve the management outcomes; and
- (d) the plan or document provides for, or allows, clearing of vegetation for 1 or more of the following purposes only—
 - (i) to control non-native plants or declared pests;
 - (ii) to ensure public safety;
 - (iii) to establish a necessary fence, firebreak, road or vehicular track;
 - (iv) to clear an encroachment;
 - (v) for thinning;
 - (vi) for fodder harvesting, other than on a part of the proposed area that is restricted (fodder harvesting land); and
- (e) the plan or document is not inconsistent with the following—
 - (i) the State policy;
 - (ii) the regional vegetation management code for the proposed area.

‘20Q Mandatory condition on approval of draft plan or accreditation of planning document

- ‘(1) The chief executive may only approve a draft plan or accredit an existing planning document as an area management plan subject to the conditions (each a *mandatory condition*) under subsections (2) and (3).
- ‘(2) If the draft plan or existing planning document provides for, or allows, clearing of vegetation to establish a fence, firebreak, road or vehicular track (each *prescribed infrastructure*), the conditions are—
 - (a) the establishment of the prescribed infrastructure must be necessary; and

- (b) the clearing can not reasonably be avoided or minimised.
- ‘(3) If the plan area includes restricted (fodder harvesting) land, the condition is that vegetation on the land can not be cleared for fodder harvesting.

‘20R Imposing additional condition on approval of draft plan

- ‘(1) This section applies to the chief executive for approving a draft plan as an area management plan.
- ‘(2) The chief executive may impose an additional condition on the area management plan if the chief executive considers the condition is necessary or appropriate—
 - (a) to manage vegetation in a way that achieves the purposes of the Act; or
 - (b) to avoid inconsistency with—
 - (i) the State policy; or
 - (ii) the regional vegetation management code for the plan area.
- ‘(3) In this section—

condition, for an area management plan, includes a condition about any of the following—

 - (a) the management intent of the plan;
 - (b) a management outcome of the plan;
 - (c) clearing vegetation or restricting the clearing of vegetation under the plan.

‘20S Other requirements for approving draft plan

- ‘(1) If the chief executive approves a draft plan as an area management plan, the chief executive must—

[s 47]

- (a) decide the period, of no longer than 10 years, for which the area management plan will be in force (the *plan period*); and
 - (b) ensure the following is stated on the area management plan—
 - (i) the plan period;
 - (ii) each relevant mandatory condition; and
 - (c) give the applicant—
 - (i) a copy of the area management plan; and
 - (ii) if the plan period is not 10 years—an information notice about the decision under paragraph (a).
- ‘(2) If the chief executive decides to approve the draft plan for only part of the proposed area, the chief executive must also—
- (a) ensure the part of the area is accurately shown in the area management plan; and
 - (b) give the applicant an information notice about the decision.
- ‘(3) If the chief executive decides to impose an additional condition on the area management plan under section 20R, the chief executive must also—
- (a) ensure the condition is stated on or reflected in the plan; and
 - (b) give the applicant an information notice about the decision.

‘20T Other requirements for accrediting existing planning document

- ‘(1) If the chief executive accredits an existing planning document as an area management plan, the chief executive must—
- (a) give the applicant written notice of the accreditation (the *accreditation notice*); and

- (b) ensure the accreditation notice states each relevant mandatory condition.
- ‘(2) The accreditation notice forms part of the area management plan.

‘20U Refusing to approve draft plan or accredit planning document

- ‘(1) Without limiting section 20O(1)(b) or (3)(b), the chief executive may refuse to approve a draft plan or accredit an existing planning document if—
 - (a) the chief executive has asked the applicant for information or a document under section 20N(1) and the applicant has not given the chief executive the information or document within the period mentioned in section 20N(2)(a); or
 - (b) the chief executive considers that approving the draft plan or accrediting the existing planning document is not in the interests of the State, having regard to the public interest.
- ‘(2) If the chief executive decides to refuse to approve a draft plan or accredit an existing planning document, the chief executive must give the applicant an information notice about the decision.

‘Subdivision 3 Keeping plans

‘20V Register of area management plans

- ‘(1) The chief executive must—
 - (a) give each area management plan a unique identifying number (the *identifying number*); and
 - (b) keep a register of area management plans.
- ‘(2) The register must include, for each area management plan—
 - (a) the type of the plan; and

[s 47]

- (b) the identifying number for the plan; and
 - (c) the name of the applicant for approval of the draft plan or accreditation of the existing planning document to which the area management plan relates; and
 - (d) the location and extent of the plan area; and
 - (e) a record of any amendments of the plan under subdivision 6.
- ‘(3) The chief executive may also keep in the register other information about an area management plan the chief executive considers appropriate.
- ‘(4) A person’s name under subsection (2)(c) must not be contained in the publicly available part of the register.
- ‘(5) The chief executive must publish the register, other than a person’s name under subsection (2)(c), on the department’s website.

‘Subdivision 4 Notifying clearing under plans

‘20W Requirement to give clearing notification

- ‘(1) This section applies to an owner of land if—
- (a) there is an area management plan in force for the area in which the land is situated; and
 - (b) the owner proposes to clear vegetation on the land under the plan.
- ‘(2) The owner must give the chief executive a notice in the approved form (an *area management clearing notification*) stating—
- (a) the identifying number for the area management plan; and
 - (b) the real property description of the land; and

-
- (c) the location and extent of the area proposed to be cleared (the *clearing area*); and
 - (d) the purpose of clearing the vegetation.

‘20X Offence to clear vegetation under plan without clearing notification

- ‘(1) This section applies to clearing vegetation on land in an area for which an area management plan is in force.
- ‘(2) The owner of the land must not clear the vegetation or allow the vegetation to be cleared under the area management plan unless the owner has given the chief executive an area management clearing notification for the clearing.

Maximum penalty—50 penalty units.

‘20Y Register of area management clearing notifications

- ‘(1) The chief executive must keep a register of area management clearing notifications.
- ‘(2) The register must include, for each area management clearing notification—
 - (a) the type of the area management plan to which the notification relates; and
 - (b) the identifying number for the plan; and
 - (c) the name of the person who gave the notification; and
 - (d) the real property description of the land the subject of the notification; and
 - (e) the location and extent of the clearing area; and
 - (f) the purpose of clearing the vegetation to which the notification relates; and
 - (g) the day the chief executive received the notification.
- ‘(3) The chief executive may also keep in the register other information about an area management clearing notification.

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- ‘(4) A person’s name under subsection (2)(c) must not be contained in the publicly available part of the register.
- ‘(5) The chief executive must publish the register, other than a person’s name under subsection (2)(c), on the department’s website.

‘Subdivision 5 Duration of plans

‘20Z When area management plan ends

- ‘(1) An area management plan consisting of an approved draft plan remains in force until the end of the plan period for the plan.
- ‘(2) An area management plan consisting of an accredited existing planning document remains in force until the first of the following happens—
 - (a) the end of 10 years after the accreditation;
 - (b) the existing planning document stops being in force.

‘Subdivision 6 Amending plans

‘20ZA Definition for sdiv 6

‘In this subdivision—

applicant means—

- (a) for an area management plan consisting of an approved draft plan—the person who applied for the approval; or
- (b) for an area management plan consisting of an accredited existing planning document—the person who applied for the accreditation.

‘20ZB Amendment by chief executive

- ‘(1) The chief executive may amend an area management plan if—
- (a) the amendment is only to correct a minor error in the plan, or make another change that is not a change of substance; or
 - (b) the chief executive considers it is necessary or appropriate to amend the plan because the plan—
 - (i) has become inconsistent with the State policy or the regional vegetation management code for the plan area; or
 - (ii) will become inconsistent with the State policy or relevant regional vegetation management code if it is not amended; or
- Examples—*
- 1 An area management plan becomes inconsistent with the relevant regional vegetation management code because of a change to the code.
 - 2 An area management plan consisting of an accredited existing planning document becomes inconsistent with the relevant regional vegetation management code because of an amendment of the document.
- (c) for an area management plan consisting of an accredited existing planning document—
- (i) the document has been, or is expected to be, amended; and
 - (ii) the chief executive considers that, because of the amendment, the document no longer satisfies or will no longer satisfy a criterion under section 20P(b) to (d).
- ‘(2) However, the amendment of an area management plan consisting of an accredited existing planning document may relate only to a criterion under section 20P(b) to (e) for vegetation management or clearing vegetation under the plan.

[s 47]

- ‘(3) If the chief executive amends an area management plan under subsection (1), the chief executive must ensure the amendment is clearly shown on—
 - (a) for an area management plan consisting of an approved draft plan—the area management plan; or
 - (b) for an area management plan consisting of an accredited existing planning document—the accreditation notice for the plan.
- ‘(4) If the chief executive amends an area management plan under subsection (1)(a), the chief executive must give the applicant written notice of the amendment.
- ‘(5) If the chief executive decides to amend an area management plan under subsection (1)(b) or (c), the chief executive must give the applicant—
 - (a) a copy of the amended area management plan or amended accreditation notice; and
 - (b) an information notice about the decision.

‘20ZC Amendment application for particular plans

- ‘(1) This section applies to an area management plan consisting of an approved draft plan if a change in circumstances significantly affects, or could significantly affect, the operation of the plan.

Example—

The applicant for an area management plan wants to use a new and improved method for clearing vegetation that has become available since the plan was approved but is not provided for, or allowed, under the plan.

- ‘(2) The applicant may apply to the chief executive to approve an amendment of the area management plan.
- ‘(3) However, the applicant can not apply for an approval of an amendment of—
 - (a) the plan period for the plan; or
 - (b) a mandatory condition.

-
- ‘(4) The application (the *amendment application*) must be accompanied by—
- (a) a draft amended management plan (the *draft amended plan*) that clearly shows the amendment; and
 - (b) the fee prescribed under a regulation.
- ‘(5) However, the chief executive may waive the fee if the chief executive considers the waiver is in the interest of the State.
- ‘(6) Sections 20M(2), 20N, 20O(1) and (2), 20P, 20Q, 20R, 20S(1)(c)(i), (2) and (3) and 20U (the *applied provisions*) apply to the amendment application and draft amended plan as if—
- (a) a reference in the applied provisions to the application were a reference to the amendment application; and
 - (b) a reference in the applied provisions to the applicant were a reference to the applicant for the amendment application; and
 - (c) a reference in the applied provisions to the draft plan were a reference to the draft amended plan.
- ‘(7) However, the chief executive may approve the amendment of the area management plan only if—
- (a) subject to paragraph (c), the chief executive considers the draft amended plan is consistent with the management intent and management outcomes stated in the area management plan (the *original plan*) to which the amendment application relates; and
 - (b) the draft amended plan does not remove or further restrict a condition on clearing vegetation stated in the original plan; and
 - (c) for a draft amended plan that amends the original plan by enlarging the plan area, the enlargement is no more than 10% of the plan area.’

48 Amendment of s 30 (Power to enter places)

Section 30(1)—

[s 49]

insert—

- ‘(h) a person proposing to clear vegetation at the place under an area management plan has given the chief executive an area management clearing notification for the place.’.

49 Amendment of s 63A (Review decision)

Section 63A—

insert—

- ‘(3) However, subsection (2) does not apply if the review decision relates to an original decision under—
- (a) section 20O(1)(b) or (2)(b) or (c), 20R(2) or the provisions as applied under section 20ZC(6); or
 - (b) section 20O(3)(b), 20S(1)(a) or 20ZB(1)(b) or (c).’.

50 Amendment of s 63B (Who may apply for external review)

Section 63B—

insert—

- ‘(2) However, subsection (1) does not apply if the review decision relates to an original decision mentioned in section 63A(3).’.

51 Amendment of s 70AB (Copies of documents to be available for inspection and purchase)

Section 70AB(1)—

insert—

- ‘(h) an area management plan that does not show the name of a person under section 20V(2)(c).’.

52 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *clearing area*, *owner* and *protected wildlife*—
- omit.*

(2) Schedule—

insert—

‘accreditation notice, for an area management plan, see section 20T(1)(a).

accredited existing planning document, for part 2, division 5B, see section 20I.

applicant, for part 2, division 5B, subdivision 6, see section 20ZA.

approved draft plan, for part 2, division 5B, see section 20I.

area management clearing notification see section 20W(2).

area management plan, for part 2, division 5B, see section 20J.

clearing area—

(a) for part 2, divisions 4B and 4C, see section 19U(1); or

(b) for part 2, division 5B, see section 20W(2)(c).

draft plan, for part 2, division 5B, subdivision 2, see section 20M(3)(a)(i).

existing planning document, for part 2, division 5B, see section 20K.

identifying number, for an area management plan, see section 20V(1)(a).

mandatory condition, of an area management plan, see section 20Q(1).

owner, of land—

(a) includes, generally—

(i) for freehold land—the registered owner; or

(ii) for a lease, license or permit under the *Land Act 1994*—the lessee, licensee or permittee; or

(iii) for indigenous land—the holder of title to the land;
or

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(iv) for any tenure under any other Act—the holder of the tenure; and

(b) for part 2, division 5B—see section 20I.

plan area, for part 2, division 5B, see section 20I.

plan period, for an area management plan that consists of an approved draft plan, see section 20S(1)(a).

proposed area, for part 2, division 5B, see section 20I.

protected wildlife see section 11(2)(a).

restricted (fodder harvesting) land, for part 2, division 5B, see section 20I.’.

Part 13 Amendment of Water Act 2000

53 Act amended

This part amends the *Water Act 2000*.

54 Insertion of new ch 8, pt 3C

Chapter 8—

insert—

‘Part 3C Authorities under particular special agreement Acts

‘992G Definitions for pt 3C

‘In this part—

environmental impact statement means an environmental impact statement prepared or finalised under—

(a) the *Environmental Protection Act 1994*; or

-
- (b) the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth); or
 - (c) the State Development and Public Works Organisation Act 1971.

relevant company, for a special agreement Act, means the entity that is authorised to obtain water under the agreement under the special agreement Act.

special agreement Act means each of the following Acts—

- (a) *Alcan Queensland Pty. Limited Agreement Act 1965*;
- (b) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*.

specified conditions, for a special agreement Act, means—

- (a) for the *Alcan Queensland Pty. Limited Agreement Act 1965*—the conditions stated in section 29A(2) of the agreement under that Act; or
- (b) for the *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*—the conditions stated in section 32A(2) of the agreement under that Act.

threshold limit see the *Wild Rivers Act 2005*, schedule.

Wenlock Basin wild river area means the wild river area under the Wenlock Basin Wild River Declaration.

Wenlock Basin Wild River Declaration means the wild river declaration called ‘Wenlock Basin Wild River Declaration 2010’ and approved by the Governor in Council on 3 June 2010.

‘992H Application of pt 3C

- ‘(1) This part applies to each relevant company for a special agreement Act to the extent the entity is authorised under the special agreement Act to take or interfere with water, other than artesian water or subartesian water connected to artesian water, in the Wenlock Basin wild river area.

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- ‘(2) This part does not affect a relevant company’s right or authority under a special agreement Act to take or interfere with—
 - (a) water that is not in the Wenlock Basin wild river area; or
 - (b) artesian water or subartesian water connected to artesian water in the Wenlock Basin wild river area.

‘992I Continuation of authority and grant of water licence to replace authority

- ‘(1) The authority to take or interfere with the water continues under the special agreement Act until a water licence is granted under this section to replace the authority.
- ‘(2) However, the relevant company may take or interfere with the water after the commencement of this section only under a water licence granted under this section to replace all or a part of the authority.
- ‘(3) The relevant company may give the chief executive a notice stating the company proposes to—
 - (a) take or interfere with the water in relation to all or a part of the authority; and
 - (b) obtain a water licence under this section to replace all or the part of the authority.
- ‘(4) Subsections (1) and (2) apply despite section 1037A(3) and (4) and anything to the contrary in the special agreement Act.
- ‘(5) If a relevant company gives the chief executive a notice under subsection (3), the chief executive must, within 30 business days after receiving the notice, grant the company a water licence to replace all or the part of the authority to which the notice relates.
- ‘(6) The water licence may be granted—
 - (a) with or without conditions; and
 - (b) without the need for an application under section 206.

-
- ‘(7) A condition of the water licence must not be inconsistent with—
- (a) the specified conditions for the special agreement Act; or
 - (b) information about the threshold limit mentioned in the Wenlock Basin Wild River Declaration, section 11, to the extent the information is not inconsistent with the specified conditions mentioned in paragraph (a); or
 - (c) an environmental impact statement, or any report or study prepared in support of the environmental impact statement, that deals with the taking or interfering with water in the Wenlock Basin wild river area, to the extent the environmental impact statement, report or study is not inconsistent with—
 - (i) the specified conditions mentioned in paragraph (a); or
 - (ii) the information mentioned in paragraph (b).
- ‘(8) If the chief executive grants a water licence under this section, the chief executive must, within 30 business days, give the relevant company—
- (a) the water licence in the approved form; and
 - (b) an information notice about the grant.
- ‘(9) A water licence granted under this section is taken to be a water licence for this Act.

‘992J Amendment of water licence that replaces authority

- ‘(1) The chief executive may, under section 217 or 218, amend a water licence granted under section 992I.
- ‘(2) However, the conditions of the amended water licence must not be inconsistent with—
- (a) the specified conditions for the special agreement Act to which it relates; or

[s 55]

- (b) information about the threshold limit mentioned in the Wenlock Basin Wild River Declaration, section 11, to the extent the information is not inconsistent with the specified conditions mentioned in paragraph (a); or
 - (c) an environmental impact statement, or any report or study prepared in support of the environmental impact statement, that deals with the taking or interfering with water in the Wenlock Basin wild river area, to the extent the environmental impact statement, report or study is not inconsistent with—
 - (i) the specified conditions mentioned in paragraph (a); or
 - (ii) the information mentioned in paragraph (b).
- ‘(3) Subsection (2) applies despite section 217.
- ‘(4) A relevant company may, by notice given to the chief executive, propose an amendment to its water licence granted under section 992I.
- ‘(5) The notice mentioned in subsection (4) must state the proposed amendment.
- ‘(6) If the chief executive is satisfied the proposed amended licence would not be inconsistent with a matter mentioned in subsection (2), the chief executive must, within 30 business days after receiving the notice —
- (a) amend the licence; and
 - (b) give the licensee—
 - (i) an amended licence in the approved form; and
 - (ii) an information notice about the amendment.
- ‘(7) The chief executive may amend the water licence under subsection (6) without the need for an application under section 216.’.

55 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘environmental impact statement, for chapter 8, part 3C, see section 992G.

relevant company, for chapter 8, part 3C, see section 992G.

special agreement Act, for chapter 8, part 3C, see section 992G.

specified conditions, for chapter 8, part 3C, see section 992G.

threshold limit, for chapter 8, part 3C, see section 992G.

Wenlock Basin wild river area, for chapter 8, part 3C, see section 992G.

Wenlock Basin Wild River Declaration, for chapter 8, part 3C, see section 992G.’.

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