



North Stradbroke Island Protection and Sustainability Act 2011

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Queensland

North Stradbroke Island Protection and Sustainability Act 2011

Contents

| | | Page |
|-------------------|--|------|
| Part 1 | Preliminary | |
| Division 1 | Introduction and object of Act | |
| 1 | Short title | 3 |
| 2 | Object of Act | 3 |
| 3 | Act binds all persons | 4 |
| Division 2 | Interpretation | |
| 4 | Dictionary | 4 |
| 5 | Meaning of North Stradbroke Island Region | 4 |
| Part 2 | Dealing with mining interests in the North Stradbroke Island Region | |
| Division 1 | General provision | |
| 6 | No compensation | 5 |
| Division 2 | Provisions about mining interests | |
| 7 | Application of pt 2 | 5 |
| 8 | Termination of particular NSI mining interests | 5 |
| 9 | Termination of mining lease 1109 | 6 |
| 10 | Particular NSI mining interests not to be renewed | 6 |
| 11 | Renewal of particular NSI mining leases | 7 |
| 11A | Part of mining lease 1120 subject to particular condition for renewal | 8 |
| 12 | Variation of conditions for particular NSI mining leases | 8 |
| 13 | Dealing with applications for grant of NSI mining interest | 9 |
| 14 | Prohibition on grant of NSI mining interest | 9 |
| Division 3 | Provisions about particular environmental authority | |
| 15 | Purpose of div 3 | 10 |
| 16 | Definitions for division | 10 |
| 17 | Statutory conditions of environmental authority for Enterprise Mine | 11 |
| 18 | Application by Enterprise Mine lease holder to amend restricted mine | |

Contents

| | | |
|-------------------|--|-----------|
| | path map area | 12 |
| 19 | Minister to decide application | 13 |
| 20 | Steps after making decision | 14 |
| 21 | Application to amend environmental authority under the Environmental Protection Act | 14 |
| Part 3 | Miscellaneous | |
| 22 | Opening and closing of road on DP104026 | 15 |
| Part 4 | Transitional provisions for North Stradbroke Island Protection and Sustainability and Other Acts Amendment Act 2016 | |
| 23 | Operation of Mineral Resources Act, s 312—termination of mining lease 1109 | 15 |
| 24 | Authority to enter particular land—holder of environmental authority EPML00575913 | 16 |
| 25 | Obligation of holder of particular authority to consult about land comprising mine | 16 |
| Schedule 1 | Conditions of renewal for particular mining leases | 18 |
| Schedule 2 | Variation of conditions of particular mining leases | 19 |
| Schedule 3 | Dictionary | 20 |

North Stradbroke Island Protection and Sustainability Act 2011

An Act to provide for the ending of mining in the North Stradbroke Island Region

Part 1 Preliminary

Division 1 Introduction and object of Act

1 Short title

This Act may be cited as the *North Stradbroke Island Protection and Sustainability Act 2011*.

2 Object of Act

The object of this Act is to manage the duration of mining interests over land in the North Stradbroke Island Region, and end mining in the region by the end of 2019—

- (a) to protect and restore environmental values of the region; and
- (b) to facilitate, under other Acts, the staged creation of areas to be jointly managed by the State and the traditional owners of the region; and
- (c) to assist the transition of the economy of the region from reliance on the mining industry to other industries.

3 Act binds all persons

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.

Division 2 Interpretation

4 Dictionary

The dictionary in schedule 3 defines particular words used in this Act.

5 Meaning of *North Stradbroke Island Region*

- (1) The *North Stradbroke Island Region* is the part of the State shown as 'Area A' and 'Area B' on the map titled 'NSI 1' approved by the chief executive on 18 March 2011 and held by the department.

Editor's note—

The map titled 'NSI 1' may be viewed on the department's website at <www.dnrm.qld.gov.au>.

- (2) The exact location of the boundary of the North Stradbroke Island Region is held in digital electronic form by the department.
- (3) The information held in digital electronic form can be reduced or enlarged to show the details of the boundary.

Part 2 Dealing with mining interests in the North Stradbroke Island Region

Division 1 General provision

6 No compensation

No amount, whether as compensation, reimbursement or otherwise, is payable by the State to any person for or in connection with the enactment or operation of this part.

Division 2 Provisions about mining interests

7 Application of pt 2

This part applies—

- (a) in relation to an NSI mining interest, including the granting of an NSI mining interest; and
- (b) despite the Mineral Resources Act or any other Act or law.

8 Termination of particular NSI mining interests

- (1) This section applies to an NSI mining interest if, under the Mineral Resources Act, the term of the mining interest would, apart from this section, and unless ended sooner for any reason, end after 31 December 2019.
- (2) This section does not apply to the following mining leases—
 - (a) 1105;
 - (b) 1108;
 - (c) 1109;
 - (d) 1124;

- (e) 7064.
- (3) The term of the NSI mining interest, unless ended sooner for any reason, ends at the end of 31 December 2019, and the mining interest can not at any time be renewed.
- (4) The holder of the NSI mining interest may not at any time apply for a renewal of the mining interest under the Mineral Resources Act after the commencement.

9 Termination of mining lease 1109

- (1) The term of mining lease 1109, unless ended sooner for any reason, ends on the commencement of the *North Stradbroke Island Protection and Sustainability and Other Acts Amendment Act 2016*, part 2.
- (2) The holder of mining lease 1109 may not at any time apply for a renewal of the mining lease under the Mineral Resources Act.

10 Particular NSI mining interests not to be renewed

- (1) An application for renewal of a relevant NSI mining interest made under the Mineral Resources Act but not decided before the commencement—
 - (a) can not be further dealt with under that Act; and
 - (b) is taken to have been withdrawn by the applicant on the commencement.
- (2) The holder of a relevant NSI mining interest may not apply for a renewal of the mining interest under the Mineral Resources Act after the commencement.
- (3) A renewal of a relevant NSI mining interest can not be granted under the Mineral Resources Act.
- (4) In this section—

holder, of a relevant NSI mining interest, means the holder of the mining interest under the Mineral Resources Act.

relevant NSI mining interest means an NSI mining interest in force on the commencement other than the following—

- (a) an NSI mining interest mentioned in schedule 1, column 1;
- (b) an NSI mining interest mentioned in schedule 2, column 1;
- (c) a mining interest to which section 8 or 9 applies.

11 Renewal of particular NSI mining leases

- (1) On the commencement, each mining lease mentioned in schedule 1, column 1 is taken to have been renewed under the Mineral Resources Act.
- (2) The mining lease is renewed—
 - (a) for the term stated opposite the mining lease in schedule 1, column 2; and
 - (b) subject to—
 - (i) each condition stated opposite the mining lease in schedule 1, column 3; and
 - (ii) any condition to which the mining lease was subject immediately before the renewal.
- (3) The renewals have effect as if they were granted by the Governor in Council under the Mineral Resources Act.
- (4) If there is an inconsistency between a condition mentioned in subsection (2)(b)(i) and a condition mentioned in subsection (2)(b)(ii), the condition mentioned in subsection (2)(b)(i) prevails to the extent of the inconsistency.
- (5) A mining lease mentioned in schedule 1, column 1 can not at any time be renewed after the end of the term stated opposite the mining lease in schedule 1, column 2.
- (6) The holder of a mining lease mentioned in schedule 1, column 1 may not at any time apply for a renewal of the mining lease under the Mineral Resources Act after the commencement.

[s 11A]

- (7) This section does not limit the application of any provisions of the Mineral Resources Act to the renewed mining lease including, for example, provisions about cancelling a mining lease or reducing its area.
- (8) The renewal of each lease does not create any rights in addition to the rights created in the initial granting of the relevant lease.

11A Part of mining lease 1120 subject to particular condition for renewal

On and from the commencement, mining lease 1120 is subject to the condition stated opposite the mining lease in schedule 1, column 3 only in relation to the area of land, over which the lease is granted, that is outside the restricted mine path for the mining lease.

12 Variation of conditions for particular NSI mining leases

- (1) On the commencement, the conditions of each mining lease mentioned in schedule 2, column 1 are varied as follows—
 - (a) the term of the mining lease is varied to be the term stated opposite the mining lease in schedule 2, column 2;
 - (b) from the day the mining lease would have expired apart from this section, the conditions of the mining lease are varied to include each condition stated opposite the mining lease in schedule 2, column 3.
- (2) The variations of the conditions of the mining leases have effect as if they were made by the Governor in Council under the Mineral Resources Act, section 294.
- (3) If there is an inconsistency between a condition mentioned in subsection (1)(b) and a condition to which the mining lease was subject immediately before the variation of the term of the mining lease, the condition mentioned in subsection (1)(b) prevails to the extent of the inconsistency.

- (4) A mining lease mentioned in schedule 2, column 1 can not at any time be renewed after the end of the term stated opposite the mining lease in schedule 2, column 2.
- (5) The holder of a mining lease mentioned in schedule 2, column 1 may not at any time apply for a renewal of the mining lease under the Mineral Resources Act after the commencement.
- (6) This section does not limit the application of any provisions of the Mineral Resources Act to the mining lease as varied by this section including, for example, provisions about cancelling a mining lease or reducing its area.
- (7) The variation of the conditions of each lease does not create any rights in addition to the rights created in the initial granting of the relevant lease.

13 Dealing with applications for grant of NSI mining interest

- (1) An application for the grant under the Mineral Resources Act of an NSI mining interest made but not decided before the commencement—
 - (a) can not be further dealt with under that Act; and
 - (b) is taken to have been withdrawn by the applicant on the commencement.
- (2) A person can not apply under the Mineral Resources Act, the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004* for a grant of an NSI mining interest after the commencement.

14 Prohibition on grant of NSI mining interest

- (1) An NSI mining interest can not be granted.
- (2) In this section—

NSI mining interest does not include an authorisation under the Mineral Resources Act, section 344A over land in the North Stradbroke Island Region.

Division 3 **Provisions about particular environmental authority**

15 **Purpose of div 3**

The purpose of this division is to provide for the restriction of the winning of a mineral in relation to a particular environmental authority for mining activities on North Stradbroke Island.

16 **Definitions for division**

In this division—

limit of disturbance, for an Enterprise Mine lease, means—

- (a) the area shown as the limit of disturbance for the lease on the restricted mine path map; or
- (b) if the area mentioned in paragraph (a) is amended under section 19—the area as amended.

restricted mine path map area, for an Enterprise Mine lease, means any of the following for the lease—

- (a) the dredge path;
- (b) the dry mining area;
- (c) the limit of disturbance.

threatened ecosystem means an ecosystem identified, by reference to the ecosystem's biodiversity status, as one of the following in the database known as the Regional Ecosystem Description Database kept by the department—

- (a) an endangered dominant ecosystem;
- (b) an endangered sub-dominant ecosystem;
- (c) an of concern dominant ecosystem;
- (d) an of concern sub-dominant ecosystem.

Editor's note—

The Regional Ecosystem Description Database is available for inspection—

- (a) during office hours, at the Queensland Herbarium, Brisbane Botanic Gardens, Mt Coot-tha Road, Toowong and each regional office of the department; and
- (b) on the department's website.

17 **Statutory conditions of environmental authority for Enterprise Mine**

(1) Environmental authority EPML00575913 is taken to include the following conditions (the *statutory conditions*)—

- (a) subject to paragraph (c), mining activities that are the winning of a mineral from the place where it occurs may be conducted only within the restricted mine path for an Enterprise Mine lease;
- (b) mining activities that are the winning of a mineral from the place where it occurs within the restricted mine path for an Enterprise Mine lease may be conducted only until the end of 31 December 2019;
- (c) dredging may be conducted only within the dredge path;
- (d) disturbance of land may only occur within the limit of disturbance.

(2) If a condition of environmental authority EPML00575913 is inconsistent with a statutory condition, the statutory condition prevails to the extent of the inconsistency.

(3) The administering authority for the environmental authority under the Environmental Protection Act may amend the environmental authority to ensure it is consistent with the statutory conditions.

(4) In this section—

disturbance of land means any of the following—

- (a) compacting, removing, covering, exposing or stockpiling earth;

[s 18]

- (b) removing or destroying vegetation or topsoil from land to an extent that the land is susceptible to erosion;
- (c) carrying out mining;
- (d) submerging an area with tailings or waste;
- (e) constructing infrastructure on land, including roads, tracks, bridges, culverts, dams, buildings, fixed machinery, hardstand areas, airstrips, and helipads;
- (f) releasing contaminants into the soil or subsoil.

18 Application by Enterprise Mine lease holder to amend restricted mine path map area

- (1) The holder of an Enterprise Mine lease may, within 6 months after the commencement, apply to the Minister to amend a restricted mine path map area for the lease to add an area of land to, or remove an area of land from, the restricted mine path map area.
- (2) The holder may apply under subsection (1) only once.
- (3) The application must be—
 - (a) in the approved form for an amendment application under the Environmental Protection Act, section 224; and
 - (b) accompanied by—
 - (i) if land is proposed to be added to the restricted mine path map area—a cultural heritage study for the land; and
 - (ii) a map showing the location of any threatened ecosystem that may be affected by the proposed amendment; and
 - (c) supported by enough information to allow the Minister to decide the application.
- (4) In this section—

cultural heritage study see the *Aboriginal Cultural Heritage Act 2003*, schedule 2.

19 Minister to decide application

- (1) The Minister must, within 20 business days after receiving an application under section 18(1), decide to grant or refuse the application.
- (2) The Minister may amend the restricted mine path map area to add an area of land only if—
 - (a) the land proposed to be added is not, or does not include, a threatened ecosystem; and
 - (b) the Minister is satisfied that, compared to any adverse impact of the restricted mine path map area before the addition of the land, the amended area is not likely to have a significantly greater adverse impact on—
 - (i) Aboriginal cultural heritage; or
 - (ii) a threatened ecosystem; and
 - (c) the addition of the land will not result in the total area of the restricted mine path for an Enterprise Mine lease, or the total area of the limit of disturbance, being increased in size; and
 - (d) the addition of the land is consistent with the conditions applying under environmental authority EPML00575913; and
 - (e) there is an ILUA in relation to the land between—
 - (i) the holder of the Enterprise Mine lease; and
 - (ii) a registered native title body corporate for the land.
- (3) In this section—

Aboriginal cultural heritage see the *Aboriginal Cultural Heritage Act 2003*, section 8.

ILUA means an indigenous land use agreement for which an application for registration, on the Register of Indigenous Land Use Agreements, has been made under the *Native Title Act 1993* (Cwlth).

20 Steps after making decision

- (1) If the Minister decides to grant the application, the Minister must, within 10 business days after making the decision—
 - (a) amend the environmental authority to give effect to the amendment of the restricted mine path map area; and
 - (b) record particulars of the amendment in the appropriate register under the Environmental Protection Act, section 540, as if the environmental authority had been amended under that Act; and
 - (c) give the applicant a copy of the amended environmental authority.
- (2) The amendment takes effect on—
 - (a) the day the Minister decides the application under section 19; or
 - (b) if a later day is stated in the environmental authority—the later day.
- (3) If the Minister decides to refuse the application, the Minister must, within 10 business days after making the decision, give the applicant written notice of the decision.

21 Application to amend environmental authority under the Environmental Protection Act

- (1) Sections 17, 18 and 19 do not stop the holder of environmental authority EPML00575913, whether or not amended under section 19, from applying to amend the environmental authority under the Environmental Protection Act, chapter 5, part 7.
- (2) However, an amendment of the environmental authority under the Environmental Protection Act can not be made if the amendment would—
 - (a) amend a restricted mine path map area; or
 - (b) amend a condition of the environmental authority mentioned in section 17(1).

-
- (3) This section applies despite any provision of the Environmental Protection Act or any other Act or law.

Part 3 Miscellaneous

22 Opening and closing of road on DP104026

- (1) Lot 1 on SP228368 is dedicated to be a road for public use under the *Land Act 1994*.
- (2) The area of land shown as road to be closed on SP228368 is taken to be closed under the *Land Act 1994*.
- (3) This section applies despite any provision of the *Land Act 1994*.

Part 4 Transitional provisions for North Stradbroke Island Protection and Sustainability and Other Acts Amendment Act 2016

23 Operation of Mineral Resources Act, s 312—termination of mining lease 1109

- (1) This section applies in relation to the termination of mining lease 1109 (the *terminated lease*) under section 9.
- (2) To the extent the Mineral Resources Act, section 312(4) divests property on the land in the area of the terminated lease from the owner and vests the property in the State, the section applies on the day that is 3 years after the commencement.
- (3) Subsection (2) applies despite the Mineral Resources Act, section 312(1).
- (4) To remove any doubt, it is declared that this section does not apply to any mineral on the land in the area of the terminated lease.

24 Authority to enter particular land—holder of environmental authority EPML00575913

- (1) The chief executive (MRA) is taken to have given an authorisation, under the Mineral Resources Act, section 344A(3), to the holder of environmental authority EPML00575913 in relation to land that was, immediately before the commencement, subject to mining lease 1109.
- (2) The authorisation is taken to start on the commencement and end on the day that is 3 years after the commencement.
- (3) For the period of the authorisation, the holder is taken to have complied with the Mineral Resources Act, section 344C.
- (4) To remove any doubt, it is declared the Mineral Resources Act, section 348 applies in relation to the authorisation.
- (5) In this section—

chief executive (MRA) means the chief executive of the department in which the Mineral Resources Act is administered.

25 Obligation of holder of particular authority to consult about land comprising mine

- (1) This section applies while the deemed authorisation is in effect.
- (2) Before giving a notice under the MQSH Act, section 47(1) in relation to a relevant mine, the holder of the deemed authorisation must consult with a registered native title body corporate for the land comprising the mine or part of the mine.
- (3) Before giving a notice under the MQSH Act, section 47(5) in relation to a relevant mine, the holder of the deemed authorisation must consult with a registered native title body corporate for the land the holder proposes to be added to or omitted from the mine.
- (4) If the holder gives a notice under the MQSH Act, section 47(1) or (5), the holder must, as soon as practicable after giving the notice, give the chief executive—

- (a) a copy of the notice; and
 - (b) evidence of the consultation with a registered native title body corporate for the land mentioned in the notice.
- (5) In this section—

deemed authorisation means the authorisation taken to have been given by the chief executive under section 24.

mine see the MQSH Act, section 9.

MQSH Act means the *Mining and Quarrying Safety and Health Act 1999*.

relevant mine means a mine comprised of all or part of the land that was, immediately before the termination of mining lease 1109, subject to mining lease 1109.

Schedule 1 Conditions of renewal for particular mining leases

section 11

| Column 1 | Column 2 | Column 3 |
|---|--|---|
| Mining lease | Term of renewal | Conditions for renewal |
| Mining lease 1117 | The term of renewal ends at the end of 31 December 2019. | |
| Mining leases 1103, 1118, 1119, 1120, 1121, 1129 and 1130 | The term of renewal ends at the end of 31 December 2019. | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |
| Mining lease 1122 | The term of renewal ends at the end of 31 December 2015. | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |
| Mining lease 1124 | The term of renewal ends at the end of 31 October 2025. | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |

Schedule 2 Variation of conditions of particular mining leases

section 12

| Column 1 | Column 2 | Column 3 |
|---------------------|--|---|
| Mining lease | Term | Conditions |
| Mining lease 1163 | The term for the mining lease is varied to end at the end of 31 December 2019. | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |
| Mining lease 1140 | The term for the mining lease is varied to end at the end of 31 December 2019. | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |
| Mining lease 7064 | The term for the mining lease is varied to end at the end of 31 October 2025. | The winning of a mineral from the place where it occurs in the area of land over which the lease is granted is not permitted under the lease. |

Schedule 3 Dictionary

section 4

dredge path, for an Enterprise Mine lease, means—

- (a) the area shown as the dredge path for the lease on the restricted mine path map; or
- (b) if the area mentioned in paragraph (a) is amended under section 19—the area as amended.

dry mining area, for an Enterprise Mine lease, means—

- (a) the area shown as dry mining for the lease on the restricted mine path map; or
- (b) if the area mentioned in paragraph (a) is amended under section 19—the area as amended.

Enterprise Mine lease means mining lease 1105, mining lease 1117 or mining lease 1120.

environmental authority see the Environmental Protection Act, schedule 4.

Environmental Protection Act means the *Environmental Protection Act 1994*.

holder, of a mining lease, means the holder of the lease under the Mineral Resources Act.

limit of disturbance, for part 2, division 3, see section 16.

Mineral Resources Act means the *Mineral Resources Act 1989*.

mining interest means any lease, licence, permit or other instrument authorised under—

- (a) the Mineral Resources Act; or
- (b) the *Petroleum Act 1923*; or
- (c) the *Petroleum and Gas (Production and Safety) Act 2004*.

mining lease means a mining lease under the Mineral Resources Act.

North Stradbroke Island Region see section 5.

NSI mining interest means a mining interest over land in the North Stradbroke Island Region, other than an approval to remove a mineral or property from the land under the Mineral Resources Act, section 313.

registered native title body corporate see the *Native Title Act 1993* (Cwlth), section 253.

restricted mine path, for an Enterprise Mine lease, means—

- (a) the area comprising the dredge path and the dry mining area for the lease; or
- (b) if the area mentioned in paragraph (a) is amended under section 19—the area as amended.

restricted mine path map means the map titled ‘NSI 3’ approved by the chief executive on 18 November 2015 and held by the department.

restricted mine path map area, for part 2, division 3, see section 16.

threatened ecosystem, for part 2, division 3, see section 16.