



Queensland

North Stradbroke Island Protection and Sustainability and Other Acts Amendment Act 2016

Act No. 32 of 2016



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North Stradbroke Island Protection and Sustainability and Other Acts Amendment Act 2016

Act No. 32 of 2016

An Act to amend the Coal Mining Safety and Health Act 1999, the Environmental Protection Act 1994, the Land Court Act 2000, the Mineral Resources Act 1989, the Mining and Quarrying Safety and Health Act 1999, and the North Stradbroke Island Protection and Sustainability Act 2011 for particular purposes

[Assented to 14 June 2016]

[s 1]

The Parliament of Queensland enacts

Part 1 Preliminary

1 Short title

This Act may be cited as the *North Stradbroke Island Protection and Sustainability and Other Acts Amendment Act 2016*.

2 Commencement

Part 5 commences on a day to be fixed by proclamation.

Part 2 Amendment of North Stradbroke Island Protection and Sustainability Act 2011

3 Act amended

This part amends the *North Stradbroke Island Protection and Sustainability Act 2011*.

4 Amendment of long title

Long title, from ‘Region,’—
omit, insert—

Region

5 Amendment of s 2 (Object of Act)

Section 2, from ‘2035’ to ‘2040’—

omit, insert—

2019

6 Amendment of s 9 (Termination of mining lease 1109 if not renewed)

(1) Section 9, heading, ‘if not renewed’—

omit.

(2) Section 9(1), from ‘ends’—

omit, insert—

ends on the commencement of the *North Stradbroke Island Protection and Sustainability and Other Acts Amendment Act 2016*, part 2.

(3) Section 9(2), from ‘Act after’, including note—

omit, insert—

Act.

7 Amendment of s 10 (Particular NSI mining interests not to be renewed)

Section 10(3), note—

omit.

8 Amendment of s 11 (Renewal of particular NSI mining leases)

(1) Section 11(2)(b)(i), note—

omit.

(2) Section 11(5), note—

omit.

[s 9]

9 Replacement of s 11A (Mining lease 1120 no longer subject to particular condition for renewal)

Section 11A—

omit, insert—

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.

10 Omission of ss 11B–11J

Sections 11B to 11J—

omit.

11 Amendment of s 14 (Prohibition on grant of NSI mining interest)

Section 14(2)—

omit, insert—

(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.

12 Amendment of s 15 (Purpose of div 3)

Section 15, ‘replacement and further amendment of’—

omit, insert—

restriction of the winning of a mineral in relation to

13 Replacement of s 17 (Replacement of environmental authority MIN100971509)

Section 17—

omit, insert—

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—

[s 13]

- (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;
- (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

[s 13]

- (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

[s 13A]

- (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.

13A Insertion of new pt 4 hdg

After section 22—

insert—

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

14 **Replacement of ss 23 and 24**

Sections 23 and 24—

omit, insert—

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

[s 14]

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.

15 Omission of sch 2A (Environmental authority EPML00575913)

Schedule 2A—

omit.

16 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definition *commencement*—

omit.

(2) Schedule 3—

insert—

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

[s 16]

- (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.

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.

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.

- (3) Schedule 3, definition *NSI mining interest*, 'Region.'—
omit, insert—

Region, other than an approval to remove a mineral or property from the land under the Mineral Resources Act, section 313.

Part 3

Amendment of Coal Mining Safety and Health Act 1999

17 Act amended

This part amends the *Coal Mining Safety and Health Act 1999*.

18 Amendment of s 9 (Meaning of *coal mine*)

Section 9(1)—

insert—

- (f) a place that was a coal mine, or part of a coal mine, while—
- (i) on-site activities are carried on, continuously or from time to time; and
 - (ii) an authorisation to enter land under the *Mineral Resources Act 1989*, section 344A(3) is in force for the place.

19 Amendment of s 70 (Responsibility for protecting abandoned coal mines)

Section 70—

[s 20]

insert—

(6) In this section—

environmental authority see the *Environmental Protection Act 1994*, schedule 4.

holder, for a coal mine, includes the holder of an environmental authority to carry out on-site activities for land on which the coal mine is located.

Part 4 Amendment of Environmental Protection Act 1994

20 Act amended

This part amends the *Environmental Protection Act 1994*.

20A Amendment of s 201 (Term of environmental authority)

Section 201—

insert—

(2) To remove any doubt, it is declared that an environmental authority continues in force in relation to an ERA carried out on land identified by reference to a resource tenure even if the resource tenure expires or is cancelled.

21 Amendment of sch 4 (Dictionary)

Schedule 4, definition *holder*—

insert—

4A However, if a resource tenure for which a holder has an environmental authority ends, the person who was the holder of the tenure

under resource legislation immediately before it ended continues to be the holder of the environmental authority.

Part 5

Amendment of Land Court Act 2000

22 Act amended

This part amends the *Land Court Act 2000*.

23 Insertion of new pt 6, div 6

Part 6—

insert—

Division 6

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

98 Extension of particular transitional regulation-making power

A transitional regulation under section 97 may provide that the provisions of this Act, with necessary modifications provided in the regulation, apply to the Land Court in the performance of a function or exercise of a power conferred on the court under the *Mineral Resources Act 1989*, sections 345 and 346.

[s 24]

99 Expiry of division

This division expires 1 year after the day section 97 commences.

Part 6 Amendment of Mineral Resources Act 1989

24 Act amended

This part amends the *Mineral Resources Act 1989*.

25 Amendment of ch 13, pt 4, hdg

Chapter 13, part 4, heading, after ‘mines’—
insert—

and final rehabilitation sites

26 Amendment of s 344 (Definitions for pt 4)

(1) Section 344, definition *abandoned mine*—
omit.

(2) Section 344—
insert—

abandoned mine means a site—

- (a) where mining or mining exploration activities have been carried out; and
- (b) for which no current mining lease or mining claim is granted; and
- (c) for which no environmental authority is in force for activities mentioned in paragraph (a) that were carried out under a mining

lease or mining claim that is no longer in force.

final rehabilitation site means a site—

- (a) where mining or mining exploration activities have been carried out; and
- (b) for which an environmental authority for the mining activities mentioned in paragraph (a) is in force.

holder, of an environmental authority, means the holder of the environmental authority under the Environmental Protection Act.

- (3) Section 344, definition *authorised person*, from ‘chief executive,’—

omit, insert—

chief executive under section 344A(1) or (3).

- (4) Section 344, definition *rehabilitation activities*, ‘344A’—

omit, insert—

344A(1) and (3)

27 Amendment of s 344A (Authorised person to carry out rehabilitation activities)

Section 344A—

insert—

- (2) Subsection (3) applies to land on which a final rehabilitation site exists.
- (3) The chief executive may authorise the holder of an environmental authority that is in force for the land to enter the land, or part of the land, to carry out activities (also ***rehabilitation activities***)—
 - (a) for the environmental management of the land required of the holder under an

[s 27]

environmental requirement under the Environmental Protection Act; or

- (b) the holder would be required to carry out, if an EPA surrender application had been made for the environmental authority, to satisfy an EPA administering authority for the application of the approval matters for the application.
- (3A) If the holder is not otherwise authorised under this Act to carry out a rehabilitation activity mentioned in subsection (3), an authorisation under the subsection is taken to authorise the holder to carry out the activity for the period mentioned in subsection (4).
- (3B) However, an authorisation under subsection (3) does not authorise, and is not taken to authorise, the holder to carry out an activity that is an act to which the right to negotiate provisions apply.
- (4) An authorisation under subsection (3) must be in writing and state the period for which the holder is authorised to enter the land.
- (5) However, the chief executive may authorise the holder to enter the land under subsection (3) only if—
- (a) a provision of an Act prevents the holder of an expired mining tenement for the final rehabilitation site from applying to renew the tenement within the renewal period for the tenement; or
 - (b) an application to renew an expired mining tenement for the final rehabilitation site was refused other than because the Minister was not satisfied about a matter mentioned in—
 - (i) section 93(3)(b)(i) or (ii); or
 - (ii) section 286A(1)(a).

-
- (6) If the chief executive authorises a holder to enter land under subsection (3), the following persons are also authorised to enter the land to carry out rehabilitation activities mentioned in the subsection—
- (a) an officer or employee of the holder; and
 - (b) a person engaged by the holder under a contract or other arrangement to carry out the rehabilitation activities.

- (7) In this section—

approval matter, for an EPA surrender application, means a matter about which the EPA administering authority must be satisfied under the Environmental Protection Act, section 269.

EPA administering authority, for an EPA surrender application, means the administering authority for the application under the Environmental Protection Act.

EPA surrender application means a surrender application under the Environmental Protection Act, section 257(1).

expired mining tenement, for a final rehabilitation site, means a mining lease or mining claim for the site—

- (a) under which a mining activity was carried out; and
- (b) that is no longer in force.

renewal period—

- (a) for an expired mining tenement that is a mining claim—means the period stated in section 93(1) in which the holder of the mining claim may apply for its renewal; or
- (b) for an expired mining tenement that is a mining lease—means the period that is—

[s 28]

- (i) at least 6 months, or any shorter period allowed by the Minister, before the current term of the lease expires; and
- (ii) not more than 1 year before the current term expires.

28 Amendment of s 344B (Entering land to carry out rehabilitation activities)

- (1) Section 344B(1)(a), after ‘mine’—

insert—

or a final rehabilitation site

- (2) Section 344B(2)—

insert—

(aa) if the entry is authorised under section 344A(3) and paragraph (a) does not apply—at any time after the end of the notice period; or

- (3) Section 344B(2)(b), ‘within a period of 10 business days starting on’—

omit, insert—

at any time after

- (4) Section 344B(2)(aa) and (b)—

renumber as section 344B(2)(b) and (c).

- (5) Section 344B(4)—

insert—

notice period means a period of 10 business days starting on the earlier of the following—

- (a) the day the owner of the land is given notice of the entry under section 344C;
- (b) the day the occupier of the land is given notice of the entry under section 344C.

29 Amendment of s 344C (Notice of entry)

(1) Section 344C(1)—

insert—

(ab) if the entry is authorised under section 344A(3) and paragraph (a) does not apply—at least 10 business days before entering the land; or

(2) Section 344C(1)(ab) and (b)—

renumber as section 344C(1)(b) and (c).

30 Insertion of new ss 345–348

Chapter 13, part 4—

insert—

345 Compensation

- (1) The holder of an environmental authority who is authorised under section 344A(3) to enter land must pay compensation to each owner of the land—
 - (a) in compliance with an agreement (a ***compensation agreement***) between the holder and each owner of the land; or
 - (b) as decided by the Land Court.
- (2) A compensation agreement has no effect unless the agreement is—
 - (a) in writing; and
 - (b) signed by or for the parties to the agreement; and
 - (c) filed.
- (3) If a compensation agreement is required by a law of Queensland to be stamped, it may not be filed until it is stamped according to law.

[s 30]

- (4) At any time before a compensation agreement is made, a person who could be a party to the agreement may apply in writing to the chief executive to have the Land Court decide the amount of compensation and the terms, conditions and times of its payment.
- (5) If a person applies to the chief executive under subsection (4), the chief executive must refer the issue of compensation to the Land Court for its decision.

346 Land Court's decision about compensation

- (1) This section applies if the chief executive refers a matter to the Land Court under section 345(5).
- (2) The Land Court must fix a date for the hearing and immediately give written notice of the date to—
 - (a) the chief executive; and
 - (b) each person mentioned in section 345(1)(a).
- (3) The date for the hearing must be at least 20 business days after the day it is fixed.
- (4) The Land Court must settle the amount of compensation an owner of land is entitled to as compensation for the matters mentioned in section 281(3)(a)(i) to (vi) as a consequence of the grant of the authorisation to enter the land.
- (5) In assessing the amount of compensation payable, section 281(4)(a) to (e) applies—
 - (a) as if the reference in section 281(4)(c) to the application for the grant of the mining lease were a reference to the grant of the authorisation to enter the land; and
 - (b) as if the reference in section 281(4)(d) to the lodgement of the relevant application for the

grant of a mining lease were a reference to the grant of the authorisation to enter the land; and

- (c) as if the reference in section 281(4)(e) to subsection (3) were a reference to subsection (2) of this section; and
 - (d) with any other changes the Land Court considers necessary.
- (6) Section 281(5), (6) and (7) applies in relation to the Land Court's decision about compensation.

347 Application of particular provisions about compensation

- (1) Section 282 applies in relation to a decision of the Land Court about compensation under this part as if the reference in section 282(1) to section 281 were a reference to section 346.
- (2) Section 283 applies in relation to an agreement or decision about compensation under this part as if a reference in that section to section 279, 280, 281 or 282 included a reference to section 345 or 346.

348 Liability for payment of compensation to native title holders

- (1) This section applies if compensation is payable under the *Native Title Act 1993* (Cwlth) to native title holders for the grant of an authorisation to enter land under section 344A(3).
- (2) The person liable to pay the compensation is the holder of the environmental authority who is authorised under section 344A(3) to enter the land.
- (3) In this section—

[s 31]

native title holders see the *Native Title Act 1993* (Cwlth), section 224.

31 Amendment of s 363 (Substantive jurisdiction)

Section 363(2)—

insert—

(ha) an authorisation to enter land under section 344A(3);

32 Amendment of s 398 (Delegation by Minister and chief executive)

Section 398—

insert—

(1A) Also, the chief executive may delegate the chief executive's functions under section 344A(3) to the chief executive of the department in which the Environmental Protection Act is administered.

33 Amendment of s 411 (Indemnity against liability)

Section 411(1), '344A'—

omit, insert—

344A(1)

34 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *holder*—

omit.

(2) Schedule 2—

insert—

final rehabilitation site, for chapter 13, part 4, see section 344.

holder—

- (a) for a prospecting permit, exploration permit, mining claim, mineral development licence or mining lease, means the person in whose name the permit, claim, licence or lease is recorded, and, for chapter 2, part 1, includes a person mentioned in section 13, definition *holder*; or
- (b) of an environmental authority, for chapter 13, part 4, see section 344.

Part 7 **Amendment of Mining and Quarrying Safety and Health Act 1999**

35 Act amended

This part amends the *Mining and Quarrying Safety and Health Act 1999*.

36 Amendment of s 9 (Meaning of *mine*)

Section 9(1)—

insert—

- (g) a place that was a mine, or part of a mine, while—
 - (i) operations are carried on, continuously or from time to time; and
 - (ii) an authorisation to enter land under the *Mineral Resources Act 1989*, section 344A(3) is in force for the place.

[s 36A]

36A Amendment of s 21 (Meaning of *operator*)

Section 21(1)(b), ‘9(1)(d) or (f)’—

omit, insert—

9(1)(d), (f) or (g)

37 Amendment of s 61 (Responsibility for protecting abandoned mines)

Section 61—

insert—

(6) In this section—

environmental authority see the *Environmental Protection Act 1994*, schedule 4.

holder, for a mine, includes the holder of an environmental authority to carry out operations for land on which the mine is located.

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