

Land, Water and Other Legislation Amendment Bill 2013

Amendments during consideration in detail to be moved by
The Honourable the Minister for Natural Resources and Mines

1 **Clause 2 (Commencement)**

Page 26, lines 10 and 11—

omit, insert—

- (b) sections 93 and 118;
- (c) division 3 of parts 9, 11, 12, 13 and 19;
- (d) schedule 1, part 2.

2 **Clause 24 (Insertion of new ss 3 and 4)**

Page 45, lines 12 and 13—

omit, insert—

- (b) an easement; or
- (c) other land that is described in a way that is sufficient to substantially identify the land.

3 **Clause 93 (Amendment of s 322A (Severing joint tenancy by transfer))**

Page 82, lines 8 to 15—

omit, insert—

Section 322A(4)—

omit, insert—

- (4) The chief executive may register the transfer only if the chief executive is satisfied the severing party has given, or made a reasonable attempt to give, each other joint tenant the following—

- (a) if the transfer is an electronic conveyancing document—notice of the severing party’s intention to sever the joint tenancy under subsection (2);
- (b) otherwise—a copy of the transfer.

4 Clause 118 (Amendment of s 59 (Severing joint tenancy))

Page 100, lines 19 to 26—

omit, insert—

Section 59(2)—

omit, insert—

- (2) However, the registrar may register the instrument of transfer only if the registrar is satisfied the registered owner has given, or made a reasonable attempt to give, each other joint tenant the following—
 - (a) if the instrument is an electronic conveyancing document—written notice of the registered owner’s intention to sever the joint tenancy under subsection (1);
 - (b) otherwise—a copy of the instrument.

5 After clause 203

Page 166, after line 12—

insert—

Part 15A Amendment of Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012

203A Act amended

This part amends the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012*.

Editor's note—

Sections 203B to 203G, legislation ultimately amended—

- *Sustainable Planning Act 2009*

203B Amendment of s 2 (Commencement)

- (1) Section 2, first dot point, ‘and (4)’—
omit, insert—
, (4), (4A) and (29A)
- (2) Section 2, after first dot point—
insert—
 - sections 51A and 84A to 84F
- (3) Section 2, second dot point, ‘section 944’—
omit, insert—
sections 944 and 944A

203C Amendment of s 35 (Insertion of new ch 6, pt 1, div 4, sdiv 2A)

- (1) Section 35, inserted section 255E(1)—
omit, insert—
 - (1) This section applies to an application if—

- (a) the chief executive is the assessment manager or a referral agency for the application; and
 - (b) had the application been made before the commencement of this section, an entity (a *relevant entity*) other than the local government would have been the assessment manager, or the referral agency, for the application; and
 - (c) another Act imposes requirements on the relevant entity assessing the application as the assessment manager or referral agency.
- (2) Section 35, inserted section 255E(11)—
renumber as section 255E(14).
- (3) Section 35, inserted section 255E—
insert—
 - (11) Subsection (12) applies if, under the other Act, a function is conferred—
 - (a) on the relevant entity as the assessment manager or a referral agency for the application; and
 - (b) for an investigative or enforcement purpose.
 - (12) For the purpose, the relevant entity is taken to be the assessment manager or a referral agency for the application.
 - (13) This section does not apply to the *Airport Assets (Restructuring and Disposal) Act 2008*, chapter 3, part 2.

203D Insertion of new s 51A

After section 51—

insert—

51A Amendment of s 367 (What is a *permissible change* for a development approval)

- (1) Section 367(1), after ‘that would not’—
insert—
, because of the change
- (2) Section 367(2), ‘(the applicable law)’
omit.
- (3) Section 367(3)—
omit.

203E Insertion of new ss 84A to 84F

After section 84—

insert—

**84A Amendment of ch 8, pt 1, div 8, hdg
(Conditions State infrastructure providers
may impose for infrastructure)**

Chapter 8, part 1, division 8, heading, from ‘State infrastructure’—

omit, insert—

**chief executive and State infrastructure
providers may impose**

**84B Amendment of s 653 (Conditions State
infrastructure provider may impose)**

- (1) Section 653, heading, after ‘Conditions’—
insert—
chief executive and
- (2) Section 653(1), ‘A State infrastructure provider’—
omit, insert—

The chief executive or a State infrastructure provider (the *imposing entity*)

- (3) Section 653(5), ‘State infrastructure provider’—

omit, insert—

imposing entity

84C Amendment of s 654 (Requirements for conditions about safety or efficiency)

- (1) Section 654(3), ‘State infrastructure provider’—

omit, insert—

imposing entity

- (2) Section 654(3), ‘provider is’—

omit, insert—

imposing entity is

84D Amendment of s 655 (Requirements for conditions about additional infrastructure costs)

- (1) Section 655(1), ‘A State infrastructure provider’—

omit, insert—

An imposing entity

- (2) Section 655(1)(b), ‘State infrastructure provider’—

omit, insert—

imposing entity

- (3) Section 655(3), ‘infrastructure provider’—

omit, insert—

imposing entity

- (4) Section 655(5), ‘State infrastructure provider’—

omit, insert—

imposing entity

- (5) Section 655(5), ‘provider is’—

omit, insert—

imposing entity is

84E Amendment of s 656 (State infrastructure provider additional infrastructure costs in priority infrastructure areas)

- (1) Section 656, heading, ‘State infrastructure provider additional’—

omit, insert—

Additional

- (2) Section 656(1), ‘a State infrastructure provider’—

omit, insert—

an imposing entity

- (3) Section 656(2), ‘State infrastructure provider’—

omit, insert—

imposing entity

84F Amendment of s 657 (State infrastructure provider additional infrastructure costs outside priority infrastructure areas)

Section 657, heading, ‘State infrastructure provider additional’—

omit, insert—

Additional

203F Amendment of s 122 (Insertion of new ch 10, pt 6)

Section 122, inserted section 944—

omit, insert—

944 Development applications not decided on commencement

- (1) This section applies to a development application made but not decided on the commencement.
- (2) The development application must be dealt with and decided under this Act as in force immediately before the commencement.

944A Chief executive is assessment manager or concurrence agency for ch 6, pt 8, divs 2 and 5

- (1) This section applies to a relevant development approval if—
 - (a) an entity other than the chief executive (the *relevant entity*) was the assessment manager or a concurrence agency for the application to which the approval relates; and
 - (b) had the application been made after the commencement, the chief executive would have been the assessment manager or a concurrence agency for the application.
- (2) For chapter 6, part 8, divisions 2 and 5—
 - (a) the chief executive is taken to be—
 - (i) if the relevant entity was the assessment manager—the assessment manager; or
 - (ii) if the relevant entity was a concurrence agency—that concurrence agency; and

- (b) if the relevant entity as a concurrence agency imposed a condition of the approval—the chief executive is taken to have imposed the condition.
- (3) In this section—
 - relevant development approval* means a development approval—
 - (a) given before the commencement; or
 - (b) given after the commencement if the application to which the approval relates was made before the commencement.

203G Amendment of s 123 (Amendment of sch 3 (Dictionary))

- (1) Section 123—
 - insert—*
 - (4A) Schedule 3—
 - insert—*
 - imposing entity* see section 653(1).
- (2) Section 123—
 - insert—*
 - (29A) Schedule 3, definition *State infrastructure provider*, ‘concurrence agency’—
 - omit, insert—*
 - public sector entity, other than a local government,

6 Clause 228 (Amendment of s 20 (Authorised taking of, or interference with, water without water entitlement))

Page 184, lines 12 to 23 and page 185, lines 1 to 7—

omit.

- 7 Clause 259 (Amendment of ch 2, pt 6, div 2, sdiv 2 (Contents and conditions of water licence))**
Page 211, lines 17 to 21—
omit.
- 8 Clause 260 (Amendment of s 213 (Contents of water licence))**
Page 211, lines 22 to 25—
omit.
- 9 Clause 261 (Insertion of s 213A)**
Page 211, lines 26 and 27 and page 212, lines 1 to 27—
omit.
- 10 Clause 264 (Omission of ch 2, pt 7 (Catchment areas))**
Page 213, lines 29 to 31—
omit.
- 11 Clause 270 (Amendment of s 556 (Amending establishment regulation))**
Page 215, lines 11 to 14—
omit, insert—
- publish notice of the amendment—
- (a) in the gazette; and
- (b) in another way the chief executive considers appropriate having regard to the intended audience for the notice.
- 12 Clause 272 (Amendment of s 598A (Changing the composition of a board))**
Page 215, lines 23 to 26—

omit, insert—

- (2) The chief executive must publish notice of the proposed change—
 - (a) in the gazette; and
 - (b) in another way the chief executive considers appropriate having regard to the intended audience for the notice.

13 Clause 279 (Insertion of new s 695A)

Page 217, lines 17 to 28—

omit, insert—

695A Closed water activity agreement

- (1) This section applies for a water authority if—
 - (a) the water authority carries out water activities including water supply or drainage for an authority area; and
 - (b) all the registered owners of the land in the authority area enter into a written agreement complying with subsection (2) (a *closed water activity agreement*) about carrying out the water activities for the land.
- (2) The agreement must state—
 - (a) the land and works to which the agreement applies; and
 - (b) if the water activities include water supply—
 - (i) the water to which the agreement applies; and
 - (ii) the arrangements for supplying the water to each registered owner's land; and

14 Clause 279 (Insertion of new s 695A)

Page 218, line 20, ‘supply’—

omit, insert—

activity

15 Clause 279 (Insertion of new s 695A)

Page 218, line 24, ‘supply’—

omit, insert—

activity

16 Clause 279 (Insertion of new s 695A)

Page 218, line 27, ‘subsection (1)’—

omit, insert—

subsection (1)(b)

17 Clause 280 (Amendment of s 696 (Procedure before authority is dissolved to convert to alternative institutional structures))

Page 219, line 3, ‘supply’—

omit, insert—

activity

18 Clause 280 (Amendment of s 696 (Procedure before authority is dissolved to convert to alternative institutional structures))

Page 219, line 10, ‘supply’—

omit, insert—

activity

- 19 Clause 281 (Amendment of s 703 (Continuing legal proceedings))**
Page 219, line 20, ‘supply’—
omit, insert—
activity
- 20 Clause 283 (Amendment of s 966 (Additional criteria for assessing development applications))**
Page 220, lines 1 to 9—
omit.
- 21 Clause 288 (Insertion of new ch 9, pt 6)**
Page 222, lines 6 to 19—
omit.
- 22 Clause 289 (Amendment of sch 4 (Dictionary))**
Page 225, line 25—
omit, insert—
institutional structure, priority
- 23 Clause 289 (Amendment of sch 4 (Dictionary))**
Page 226, line 9, ‘supply’—
omit, insert—
activity
- 24 Clause 289 (Amendment of sch 4 (Dictionary))**
Page 226, lines 12 and 13—
omit, insert—
closed water activity agreement see section 695A(1)(b).

25 Before clause 290

Page 228, after line 8—

insert—

289A Amendment of s 20 (Authorised taking of, or interference with, water without water entitlement)

(1) Section 20—

insert—

(6B) A person may interfere with water if—

- (a) the interference is a diversion of a watercourse and is associated with a resource activity; and
- (b) the impacts of the interference were assessed as part of a grant of an environmental authority for the resource activity; and
- (c) the environmental authority was granted with a condition about the diversion of the watercourse.

(2) Section 20(11)—

insert—

resource activity see the *Environmental Protection Act 1994*, section 107.

26 After clause 292

Page 234, after line 6—

insert—

292A Amendment of ch 2, pt 6, div 2, sdiv 2 (Contents and conditions of water licence)

Chapter 2, part 6, division 2, subdivision 2, heading, 'Contents'—

omit, insert—

Contents, terms

292B Amendment of s 213 (Contents of water licence)

Section 213(1)(a), 'be granted for a stated period'—

omit, insert—

state the term of the licence

292C Insertion of new s 213A

Chapter 2, part 6, division 2, subdivision 2—

insert—

213A Term of water licence

- (1) A water licence expires at the end of 30 June 2111.
- (2) However, if a water resource plan, a resource operations plan or a wild river declaration states a day for the expiry of a water licence granted by the chief executive in accordance with a process mentioned in section 212(1), the licence expires on—
 - (a) if the process was stated in a water resource plan—at the end of the day stated, in the plan, for the expiry of the licence; or
 - (b) if the process was stated in a resource operations plan—at the end of the day stated, in the plan, for the expiry of the licence; or
 - (c) if the process was stated in a wild river declaration—at the end of the day stated, in the declaration, for the expiry of the licence.
- (3) The day stated for the expiry of a water licence under subsection (2) can not be

changed to an earlier day after it is first stated for the licence in a water resource plan, a resource operations plan or a wild river declaration.

- (4) This section does not prevent a water licence from being cancelled or surrendered.

292D Omission of ch 2, pt 7 (Catchment areas)

Chapter 2, part 7—

omit.

27 After clause 300

Page 238, after line 19—

insert—

300A Amendment of s 966 (Additional criteria for assessing development applications)

- (1) Section 966(1)(d) and (2)(d)—

omit.

- (2) Section 966(3) to (5)—

omit, insert—

- (3) Subsection (2) does not limit section 282 or chapter 6, part 5, division 2 of the *Sustainable Planning Act 2009*.

28 Clause 301 (Replacement of ch 8, pt 2)

Page 242, lines 16 and 17, ‘is assessable development and’—

omit.

29 Clause 301 (Replacement of ch 8, pt 2)

Page 243, line 10, ‘is assessable development and’—

omit.

30 Clause 301 (Replacement of ch 8, pt 2)

Page 243, lines 21 to 26—

omit, insert—

- (1) This section applies to a development application for development in a wild river area that is or involves the removal of quarry material for which an allocation notice is required under chapter 2, part 9.

31 Clause 301 (Replacement of ch 8, pt 2)

Page 244, lines 6 to 15—

omit, insert—

- (b) the work is related to an activity authorised under the *Mineral Resources Act 1989* if the operations allow the taking or interfering with water; and

32 Clause 303 (Insertion of new ch 9, pt 6, div 1, hdg)

Page 250, line 19—

omit, insert—

Chapter 9, part 6, after heading—

33 After clause 303

Page 250, after line 22—

insert—

303A Insertion of new s 1235

Chapter 9, part 6—

insert—

1235Term of existing water licence

- (1) Subject to any cancellation or surrender of an existing water licence, the licence expires

under section 213A despite any period stated on the licence as being the period for which the licence is granted.

(2) Also, section 213A(2) does not apply to an existing water licence granted by the chief executive in accordance with a process mentioned in section 212(1).

(3) In this section—

existing water licence means a water licence in force immediately before the commencement of this section.

34 Clause 306 (Amendment of sch 4 (Dictionary))

Page 256, line 12—

omit, insert—

(1) Schedule 4, definitions *declared catchment area* and *referral agency—*

35 Clause 306 (Amendment of sch 4 (Dictionary))

Page 258, line 23, after ‘overland’—

insert—

flow

36 Schedule 1 (Minor and consequential amendments)

Page 316, lines 3 to 5—

omit.

37 Schedule 1 (Minor and consequential amendments)

Page 317, lines 16 and 17—

omit.

38 Schedule 1 (Minor and consequential amendments)

Page 318, lines 1 and 2—

omit.

39 Schedule 1 (Minor and consequential amendments)

Page 321, after line 5—

insert—

1AA Section 24, heading, ‘s 20(3)’—

omit, insert—

s 20A(2)

1AB Section 24(1)—

omit, insert—

- (1) If there is a shortage of water, the chief executive may, by publishing a notice, limit or prohibit the taking of water under section 20A(2) for—
 - (a) the domestic purpose of watering a garden; or
 - (b) stock purposes generally.

1AC Section 25, heading, ‘s 20(8)’—

omit, insert—

s 20C(3)

1AD Section 25(1)(d), ‘20(8)’—

omit, insert—

20C(3)

1AE Section 25ZA, '20(6)'—

omit, insert—

20(2)(c)

1AF Section 30(b), '(4) or (5)'—

omit, insert—

(4), (5) or (6B)

40 Schedule 1 (Minor and consequential amendments)

Page 321, after line 12—

insert—

2A Section 47(e), 'section 20'—

omit, insert—

chapter 2, part 2, division 1A

41 Schedule 1 (Minor and consequential amendments)

Page 322, after line 2—

insert—

6A Section 747(3), 'section 20'—

omit, insert—

section 20A

42 Schedule 1 (Minor and consequential amendments)

Page 323, after line 7—

insert—

13A Section 1007, '20(7)'—

omit, insert—

20A(3)(a)

13B Section 1013B(3)(a), ‘section 20’—

omit, insert—

chapter 2, part 2, division 1A

43 Schedule 1 (Minor and consequential amendments)

Page 323, after line 10—

insert—

14A Section 1046(4)(a), ‘20(6)’—

omit, insert—

20(2)(c)

Water Regulation 2002

14B Part 2, division 4—

omit.

14C Schedule 5—

omit.

44 Long title

Long title, after ‘*Sustainable Planning Act 2009*,’—

insert—

***the Sustainable Planning and Other Legislation
Amendment Act (No. 2) 2012,***