

# Mineral and Energy Resources (Financial Provisioning) Bill 2018

Amendments during consideration in detail to be moved by  
The Honourable the Deputy Premier, Treasurer and Minister for Aboriginal  
and Torres Strait Islander Partnerships

**1 Clause 63 (Application of subdivision)**

Page 56, line 19, '799G'—

*omit, insert—*

799D

**2 Clause 79 (Definitions for part)**

Page 64, after line 22—

*insert—*

(ia) about an allocation decision for an  
authority; or

**3 Clause 79 (Definitions for part)**

Page 64, line 24, 'and'—

*omit, insert—*

or

**4 Clause 79 (Definitions for part)**

Page 64, after line 24—

*insert—*

(iv) about an investigation, or report, under  
section 73; or

(v) about a function of the scheme manager  
under section 21(1)(d); and

**5 Clause 91 (Initial allocation decision not required until scheme manager gives transition notice)**

Page 71, line 26, after ‘section 761(3)(a)’—

*insert—*

or 762(3)(a)(i)

**6 After clause 96**

Page 74, after line 5—

*insert—*

**96A Amendment of s 49 (Decision on whether EIS may proceed)**

(1) Section 49—

*insert—*

(5A) Subsection (5B) applies if—

- (a) under the final terms of reference for the EIS, the EIS submitted by the proponent includes a proposed PRC plan; and
- (b) the proposed PRCP schedule for the plan identifies an area of land as a non-use management area under section 126D(2)(b); and
- (c) the chief executive decides to allow the EIS to proceed.

(5B) The chief executive must, as soon as practicable after making the decision, ask a qualified entity to—

- (a) carry out a public interest evaluation for each area of land mentioned in subsection (5A)(b); and
- (b) before the end of the submission period for the EIS, give the chief executive a

report about the evaluation that complies with section 316PB.

(2) Section 49—

*insert—*

(8) In this section—

***qualified entity*** means an entity, other than the proponent, that has the experience and qualifications, prescribed by regulation, necessary to carry out a public interest evaluation.

**96B Replacement of ch 3, pt 1, div 4, sdiv 2, hdg (Submissions)**

Chapter 3, part 1, division 4, subdivision 2, heading—

*omit, insert—*

**Subdivision 2 Submissions and response to report about public interest evaluation**

**96C Amendment of s 56 (Response to submissions)**

(1) Section 56(1)—

*omit, insert—*

(1) The chief executive must, within 10 business days after the submission period ends, give the proponent a copy of the following documents—

(a) each submission accepted by the chief executive;

(b) if a public interest evaluation has been carried out for a proposed non-use

management area for the project—the report about the public interest evaluation.

- (1A) However, if the report mentioned in subsection (1)(b) is received by the chief executive after the submission period ends, the chief executive must give the proponent copies of the documents mentioned in subsection (1) within 10 business days after the report is received by the chief executive.
- (1B) If subsection (1)(b) applies, the chief executive must also, subject to section 316PE, give a copy of the report to each person who made a submission under section 54 about the EIS at the same time as the chief executive gives the proponent a copy of the report.
- (2) Section 56(2)(c)—  
*omit, insert—*
- (c) if subsection (1)(b) applies—a statement of the proponent’s response to the report; and
  - (d) any amendments of the submitted EIS because of the submissions or report, together with an EIS amendment notice under section 66 for the amendments.
- (3) Section 56(3), definition *relevant period*, paragraph (a)—  
*omit, insert—*
- (a) generally—
    - (i) if section (1)(b) applies and an entity asks for a review of the report under section 316PC—20 business days after notice of the reviewing entity’s decision is

given to the proponent under section 316PC(7); or

- (ii) otherwise—20 business days after the proponent is given a copy of all submissions accepted by the chief executive; or

**96D Amendment of s 56A (Assessment of adequacy of response to submission and submitted EIS)**

- (1) Section 56A(1)—

*omit, insert—*

- (1) This section applies if—

- (a) a submission is accepted by the chief executive under section 55; or
- (b) a public interest evaluation is carried out for a proposed non-use management area for the project.

- (2) Section 56A(4)(a) and (b)—

*omit, insert—*

- (a) the proponent's response to the submission, and any report about a public interest evaluation, is adequate; and
- (b) the submitted EIS is consistent with the recommendations made in any report about a public interest evaluation; and
- (c) the proponent has made all appropriate amendments to the submitted EIS because of the submission and any report about a public interest evaluation.

- (3) Section 56A(6)(d), 'submissions'—

*omit, insert—*

submission or report

**96E Amendment of s 56AA (Proponent may resubmit EIS)**

(1) Section 56AA(2), ‘submissions’—

*omit, insert—*

submission or report mentioned in section 56A(1)

(2) Section 56AA(5), ‘submissions’—

*omit, insert—*

submission or report

**7 Clause 99 (Amendment of s 112 (Other key definitions for ch 5))**

Page 75, after line 22—

*insert—*

*public interest consideration* see section 316PA(3).

*public interest evaluation* means an evaluation of a proposed non-use management area conducted under section 316PA.

**8 Clause 104 (Insertion of new ss 126B–126D)**

Page 79, line 21, ‘plan’—

*omit, insert—*

PRCP schedule for the plan

**9 Clause 104 (Insertion of new ss 126B–126D)**

Page 80, lines 26 to 30—

*omit, insert—*

- (ii) the applicant considers, having regard to each public interest consideration, that it is in the public interest for the land not to be rehabilitated to a stable condition.

**10 Clause 104 (Insertion of new ss 126B–126D)**

Page 81, line 18, ‘resource’—

*omit, insert—*

probable or proved ore reserve that is

**11 Clause 104 (Insertion of new ss 126B–126D)**

Page 81, after line 20—

*insert—*

- (ba) the land is required for the mining of a probable or proved ore reserve mentioned in paragraph (b); or

**12 Clause 104 (Insertion of new ss 126B–126D)**

Page 81, after line 27—

*insert—*

***probable or proved ore reserve*** means a probable ore reserve or proved ore reserve mentioned in the listing rules made by ASX Limited (ACN 008 624 691) for the listing of corporations on the Australian stock exchange.

**13 After clause 109**

Page 83, after line 16—

*insert—*

**109A Insertion of new s 136A**

After section 136—

*insert—*

**136A Administering authority must obtain report about public interest evaluation for particular applications**

- (1) This section applies if—
  - (a) the application stage for a site-specific application for a mining activity relating to a mining lease ends; and
  - (b) the application is accompanied by a proposed PRC plan that includes a proposed PRCP schedule identifying an area of land as a non-use management area under section 126D(2)(b); and
  - (c) either—
    - (i) a public interest evaluation by a qualified entity for the area of land mentioned in paragraph (b) has not been carried out for an EIS; or
    - (ii) a public interest evaluation by a qualified entity for the area of land mentioned in paragraph (b) has been carried out for an EIS and, since the evaluation was carried out, the proposed non-use management area has changed.
- (2) The administering authority must, as soon as practicable after the application stage ends, ask a qualified entity to—
  - (a) carry out a public interest evaluation for each area of land mentioned in subsection (1)(b); and
  - (b) give the administering authority a report about the evaluation that complies with section 316PB.

*Note—*

See section 167A(4) for when particular reports must be given to the administering authority under paragraph (b).

(3) In this section—

***EIS*** includes an EIS under the State Development Act.

***qualified entity*** means an entity, other than the applicant, that has the experience and qualifications, prescribed by regulation, necessary to carry out a public interest evaluation.

## 14 After clause 115

Page 87, after line 5—

*insert—*

### **115A Amendment of s 165 (When does decision stage start—general)**

Section 165(2), ‘and 167’—

*omit, insert—*

, 167 and 167A

### **115B Insertion of new ss 167A–167B**

After section 167—

*insert—*

#### **167A Particular site-specific applications—when decision stage starts and when report about public interest evaluation is required**

(1) This section applies if—

(a) a site-specific application is accompanied by a proposed PRC plan that includes a proposed PRCP

- schedule for which a report about a public interest evaluation has been requested under section 136A; and
- (b) the report has not been given to the administering authority on or before the day the decision stage would, other than for this section, have started for the application.
- (2) The decision stage starts on the day the report is given to the administering authority.
  - (3) If an EIS has been submitted for the project the subject of the application, the administering authority may, by written notice, require the qualified entity for the report to give the administering authority the report within—
    - (a) a stated period of not more than 12 months; or
    - (b) if the administering authority decides to extend the period mentioned in paragraph (a) by not more than 6 months—the extended period.
  - (4) The report about the public interest evaluation must be given to the administering authority within—
    - (a) if subsection (3) applies—the period mentioned in subsection (3)(a) or (b); or
    - (b) otherwise—
      - (i) 30 business days after the day the decision stage would, other than for this section, have started for the application; or
      - (ii) if the administering authority gives the applicant written notice

extending the period mentioned in subparagraph (i) by not more than 10 business days—the period stated in the notice; or

- (iii) if the applicant agrees to a longer period than the period mentioned in subparagraph (ii)—the agreed period.

### **167B Decision stage may be suspended in particular circumstances**

- (1) Subsections (2) to (4) apply in relation to a site-specific application accompanied by a proposed PRC plan that includes a proposed PRCP schedule if—
  - (a) a report about a public interest evaluation has been given to the administering authority for land the subject of the proposed PRCP schedule; and
  - (b) the report includes a statement or recommendation about a non-use management area that is inconsistent with the proposed PRCP schedule.
- (2) The applicant may, by written notice, ask the administering authority to suspend the assessment process to enable the applicant to change the application so it is consistent with the report.
- (3) If a notice is given by the applicant under subsection (2), the application process—
  - (a) stops on the day the applicant gives the administering authority the written notice; and
  - (b) restarts on the earlier of the following days—

- (i) the day notified by the applicant to the administering authority;
  - (ii) the day that is 18 months after the day the decision stage started for the application.
- (4) Part 2, division 6 does not apply to a change to the application made solely for the purpose mentioned in subsection (2).
- (5) Subsection (6) applies if, under section 316PC, an entity asks the chief executive for a review of a report about a public interest evaluation.
- (6) The assessment process stops on the day the applicant or entity makes the request to the chief executive, and restarts on the day the reviewing entity gives notice of its decision about the report under section 316PC(5)(b).

**15 Clause 118 (Insertion of new s 176A)**

Page 89, after line 2—

*insert—*

- (3) The administering authority must not approve the proposed PRCP schedule unless—
  - (a) each proposed non-use management area under the schedule has been properly identified as a non-use management area; and
  - (b) if a public interest evaluation is required for a proposed non-use management area under the schedule—the report for the evaluation recommends it is in the public interest to approve the area as a non-use management area; and

- (c) the administering authority is satisfied the schedule provides for all land the subject of the schedule to be—
  - (i) rehabilitated to a stable condition; or
  - (ii) managed as a non-use management area in a way that achieves best practice management of the area and minimises risks to the environment.

**16 Clause 122 (Replacement of s 194 (Final decision on application))**

Page 94, lines 17 to 32—

*omit.*

**17 Clause 127 (Amendment of s 205 (Conditions that must be imposed if application relates to coordinated project))**

Page 99, lines 18 to 20—

*omit, insert—*

(3) Section 205(3)—

*omit, insert—*

- (3) However, if a report for a public interest evaluation for an area of land identified as a non-use management area in the PRCP schedule or draft PRCP schedule includes a recommendation that is inconsistent with the Coordinator-General's conditions, the conditions imposed by the administering authority must be consistent with the report.
- (4) Any other condition imposed on the authority or PRCP schedule can not be inconsistent with a Coordinator-General's condition.

**18 Clause 147 (Amendment of s 228 (Assessment level decision for amendment application))**

Page 113, lines 13 to 21, from ‘satisfied—’—

*omit, insert—*

satisfied the applicant has—

- (a) undertaken adequate consultation with the community in relation to the proposed amendment; and
- (b) adequately addressed any matters raised by the community during consultation.

**19 Clause 148 (Amendment of s 232 (Relevant application process applies))**

Page 113, line 28, ‘Parts 3 to 5 apply’—

*omit, insert—*

Section 136A and parts 3 to 5 apply in relation

**20 Clause 148 (Amendment of s 232 (Relevant application process applies))**

Page 114, lines 6 to 13—

*omit, insert—*

(2) However—

- (a) if the amendment is a change to a PRCP schedule, part 4 does not apply to the application to the extent the change—
  - (i) reduces the area of a non-use management area under the schedule; or
  - (ii) is likely to reduce, or cause no change to, the impacts on environmental values caused by the activities the subject of the schedule; or

- (b) if the amendment application is for an environmental authority for a resource activity—part 4 applies only if, under section 230, the notice given under section 229 states part 4 applies.

**21 Clause 170 (Amendment of s 278 (Cancellation or suspension by administering authority))**

Page 125, lines 15 and 16—

*omit.*

**22 Clause 173 (Replacement of ch 5, pt 12 (General provisions))**

Page 139, lines 7 to 11—

*omit, insert—*

- (2) The administering authority—
  - (a) may decide to direct the holder or, for a de-amalgamated environmental authority, each of the holders, to re-apply, under section 298 for an ERC decision for the resource activity; and
  - (b) must give the holder, or each of the holders, an information notice for a decision to give a direction under paragraph (a).

**23 Clause 173 (Replacement of ch 5, pt 12 (General provisions))**

Page 149, line 13, ‘this division’—

*omit, insert—*

division 3

**24 Clause 173 (Replacement of ch 5, pt 12 (General provisions))**

Page 153, line 7, after ‘chapter’—

*insert—*

or section 318ZJA

**25 Clause 173 (Replacement of ch 5, pt 12 (General provisions))**

Page 154, line 1, after ‘Annual’—

*insert—*

**notices,**

**26 Clause 173 (Replacement of ch 5, pt 12 (General provisions))**

Page 154, lines 2 to 31 and page 155, line 1—

*omit, insert—*

**316I Annual fee**

- (1) This section applies to the holder of an environmental authority for which an annual fee is prescribed by regulation.
- (2) At least 20 business days before each anniversary day for the environmental authority, the administering authority must give the holder a written notice complying with subsection (3) (an **annual notice**).
- (3) An annual notice must state—
  - (a) that the holder must pay the administering authority the appropriate annual fee, other than in a circumstance prescribed by regulation; and
  - (b) that the annual fee payable under the notice must be paid to the administering authority within a stated reasonable time, of at least

20 business days, after the day the notice is given; and

- (c) that, if the holder does not comply with the notice, the environmental authority may be cancelled or suspended.

*Note—*

See section 278 in relation to cancellation or suspension of an environmental authority.

- (4) If the holder does not pay the annual fee within the time stated for payment in the annual notice, the administering authority may recover the annual fee as a debt.
- (5) A failure to give the notice by the time stated in subsection (2) does not invalidate or otherwise affect the validity of the notice.

### **316IA Annual returns**

- (1) This section applies to the holder of an environmental authority if the administering authority directs the holder, by written notice, to give an annual return for a stated period.
- (2) Unless the holder has a reasonable excuse, the holder must give the administering authority an annual return—
- (a) in the approved form; and
- (b) on or before—
- (i) the day prescribed by regulation; or
- (ii) if no day is prescribed—1 March immediately following the year to which the annual return relates.

Maximum penalty—100 penalty units.

- (3) If the environmental authority relates to a resource activity, the annual return must state whether there has been a change to the carrying out of the resource activity that may affect the

ERC decision for the activity.

### **316J Particular requirement for annual returns for PRCP schedule holders**

- (1) This section applies to the holder of a PRCP schedule who is given a direction under section 316IA(1).
- (2) The holder's annual return must include an evaluation of the effectiveness of—
  - (a) the actions taken in relation to each rehabilitation milestone or management milestone under the schedule; and
  - (b) the environmental management carried out under the schedule.

## **27 Clause 173 (Replacement of ch 5, pt 12 (General provisions))**

Page 158, after line 15—

*insert—*

### **Division 4A Public interest evaluations**

#### **316PA Public interest evaluations**

- (1) The purpose of a public interest evaluation of a proposed non-use management area identified in a proposed PRCP schedule is to provide a recommendation about whether the approval of the area as a non-use management area is in the public interest.

*Note—*

See sections 49(5A) and (5B) and 136A for when a public interest evaluation must be carried out.

- (2) A public interest evaluation for a proposed PRCP schedule must include a consideration of the following matters—

- (a) the benefit, including the significance of the benefit, to the community resulting from the mining activity or resource project the subject of the environmental authority application to which the PRCP schedule relates;
  - (b) any impacts, including long-term impacts for the environment or the community, that may reduce the benefit mentioned in paragraph (a) or have other negative impacts on the environment or community;
  - (c) whether there are any alternative options to approving the area as a non-use management area having regard to—
    - (i) the costs or other consequences of the alternative options; and
    - (ii) the impact of the costs or other consequences on the financial viability of the mining activity or resource project;
  - (d) whether the benefit to the community mentioned in paragraph (a), weighed against the impacts mentioned in paragraph (b), is likely to justify the approval of the non-use management area having regard to any alternative options mentioned in paragraph (c);
  - (e) another matter prescribed by regulation.
- (3) Each matter mentioned in subsection (2) is a ***public interest consideration***.
- (4) A regulation may prescribe the following in relation to the carrying out of a public interest evaluation—
- (a) how the evaluation must be carried out;
  - (b) the matters to be considered in evaluating each public interest consideration.

### **316PB Requirements for report about particular public interest evaluations**

- (1) This section applies in relation to a report about a public interest evaluation for land the subject of—
  - (a) a proposed PRCP schedule included with an EIS mentioned in section 49(5A); or
  - (b) a site-specific application mentioned in section 136A(1)(b).
- (2) The qualified entity who gives the report must, before giving the report to the administering authority, give the proponent for the EIS or applicant for the application—
  - (a) a copy of the proposed report; and
  - (b) a notice stating that the proponent or applicant may, within 20 business days after the notice is given, make submissions to the qualified entity about the proposed report.
- (3) Before finalising the report, the qualified entity must consider any submissions properly made by the proponent or applicant within the period stated in the notice under subsection (2)(b).
- (4) The report given to the chief executive must include—
  - (a) a recommendation about whether it is in the public interest to approve the non-use management area; and
  - (b) the reasons for the recommendation; and
  - (c) a response to, or statement about how the qualified entity has considered, any properly made submissions by the proponent or applicant; and
  - (d) another matter prescribed by regulation.
- (5) The administering authority must, within 5 business days after receiving the report—

- (a) publish the report on the register kept under section 540; and
- (b) notify the following entities that the report has been received—
  - (i) for a report mentioned in subsection (1)(a)—the proponent for the EIS;
  - (ii) for a report mentioned in subsection (1)(b)—the applicant;
  - (iii) each entity who made a submission to the chief executive about the EIS under section 54 or the administering authority about the application under section 160.

### **316PC Review of report**

- (1) This section applies if—
  - (a) an entity is notified under section 316PB(5)(b) that a report (the *original report*) has been received; and
  - (b) the entity—
    - (i) has justifiable doubts about the impartiality or independence of the qualified entity who gave the original report; or
    - (ii) reasonably believes the qualified entity has made a substantive error in carrying out the public interest evaluation that affects a recommendation made in the original report.
- (2) The entity may, within 15 business days after being notified about the original report, ask the chief executive to arrange for another qualified entity to review the original report.
- (3) If the chief executive receives a request under

subsection (2), the chief executive must ask another entity (the *reviewing entity*) to review the original report.

- (4) The reviewing entity must be—
  - (a) an entity that has the experience and qualifications, prescribed by regulation, necessary to carry out a public interest evaluation; and
  - (b) if the original report is—
    - (i) a report mentioned in section 316PB(1)(a)—an entity other than the proponent for the EIS; or
    - (ii) a report mentioned in section 316PB(1)(b)—an entity other than the applicant.
- (5) After reviewing the original report, the reviewing entity must, within 6 months after the chief executive makes the request under subsection (3)—
  - (a) decide to—
    - (i) confirm each recommendation made in the original report; or
    - (ii) substitute 1 or more recommendations made in the original report; and
  - (b) give written notice of the decision to—
    - (i) the chief executive; and
    - (ii) the entity who asked for the review under subsection (2).
- (6) The written notice must include reasons for the reviewing entity's decision under subsection (5)(a).
- (7) The chief executive must, within 5 business days after receiving the notice—

- (a) ensure the administering authority notes the decision on the register kept under section 540; and
- (b) notify the following entities about the reviewing entity's decision—
  - (i) for a report mentioned in section 316PB(1)(a)—the proponent for the EIS;
  - (ii) for a report mentioned in section 316PB(1)(b)—the applicant;
  - (iii) each entity who made a submission to the chief executive about the EIS under section 54 or the administering authority about the application under section 160.

### **316PD Costs of public interest evaluations and reviews**

- (1) The costs reasonably incurred by the administering authority in obtaining a report about a public interest evaluation are a debt payable by the applicant to the administering authority.
- (2) The costs reasonably incurred by the chief executive in asking a reviewing entity to review a report about a public interest evaluation under section 316PC are a debt payable by the following entity to the State—
  - (a) if an entity other than the applicant or proponent requested the review and all recommendations made in the report are confirmed under section 316PC(5)(a)(i)—the entity;
  - (b) otherwise—the proponent or applicant.

### **316PE Confidentiality of public interest evaluation**

- (1) This section applies to a person who—
  - (a) is, or has been, any of the following persons performing functions under this Act for a public interest evaluation—
    - (i) the chief executive;
    - (ii) a public service employee of the department;
    - (iii) a qualified entity under section 49(8) or 136A(3) or a reviewing entity under section 316PC(3); and
  - (b) in that capacity, acquires confidential information.

- (2) The person must not disclose the confidential information or give access to the confidential information to anyone else.

Maximum penalty—100 penalty units.

- (3) However, subsection (2) does not apply if the disclosure of, or the giving of access to, the confidential information—
  - (a) is with the consent of the person to whom the information relates; or
  - (b) is only to the extent the disclosure or access is necessary to perform the person's function under this Act in relation to the public interest evaluation; or
  - (c) is permitted or required under an Act or law.

- (4) In this section—

***confidential information*** means information about a person's commercial, business or financial affairs, other than—

- (a) statistical or other information that could not reasonably be expected to result in the

identification of the person to whom it relates; or

(b) information that is publicly available.

**28 Clause 201 (Amendment of s 540 (Registers to be kept by administering authority))**

Page 171, line 21, ‘316I(2)’—

*omit, insert—*

316IA(2)

**29 Clause 201 (Amendment of s 540 (Registers to be kept by administering authority))**

Page 171, lines 23 and 24—

*omit, insert—*

- (x) information notices given in relation to the amount and form of financial assurance;
- (xi) notices given under section 314(1)(b) or 315(5);
- (xii) reports about public interest evaluations, other than any confidential information within the meaning of section 316PE;

**30 Clause 203 (Insertion of new ch 13, pt 27)**

Page 173, after line 2—

*insert—*

*assent date* means the date of assent of the amending Act.

**31 Clause 203 (Insertion of new ch 13, pt 27)**

Page 173, after line 4—

*insert—*

*land outcome document*, for land, means the following documents relating to the land—

- (a) an environmental authority for a resource activity on the land;
- (b) a document made under a condition of an environmental authority mentioned in paragraph (a), if—
  - (i) the document relates to the management of a void within the meaning of section 126D on the land, or the rehabilitation of the land; and
  - (ii) the document was received by the administering authority before the assent date; and
  - (iii) the administering authority has not, within 20 business days after the assent date, given notice to the holder of the environmental authority that the document is insufficient in a material particular relevant to a matter mentioned in subparagraph (i); and
  - (iv) before the assent date, the document had not been superseded;
- (c) a document made under a condition of an environmental authority mentioned in paragraph (a), if—
  - (i) the document relates to the management of a void within the meaning of section 126D on the land, or the rehabilitation of the land; and
  - (ii) the environmental authority requires the document to be given to the administering authority on a stated day that is on or after the assent date, or does not state a day when the document must be given; and

- (iii) the document is received by the administering authority within 3 years after the assent date; and
- (iv) the administering authority does not, within 20 business days after receiving the document, give the holder of the environmental authority notice that the document is insufficient in a material particular relevant to a matter mentioned in subparagraph (i);
- (d) a report evaluating an EIS under the *State Development and Public Works Organisation Act 1971*, section 34D;
- (e) an EIS assessment report;
- (f) a written agreement between the holder of an environmental authority mentioned in paragraph (a) and the State that is in force on the assent date.

**32 Clause 203 (Insertion of new ch 13, pt 27)**

Page 173, line 23, '1 July 2019'—

*omit, insert—*

1 November 2019

**33 Clause 203 (Insertion of new ch 13, pt 27)**

Page 175, line 5, 'section 291 until the earlier'—

*omit, insert—*

the pre-amended Act, and the pre-amended Act, sections 289, 290 and 291 continue to apply in relation to the plan of operations, until the earliest

**34 Clause 203 (Insertion of new ch 13, pt 27)**

Page 175, line 10, 'lease.'—

*omit, insert—*

lease;

**35 Clause 203 (Insertion of new ch 13, pt 27)**

Page 175, after line 10—

*insert—*

- (c) if the holder of the mining lease re-applies for an ERC decision under the amended Act, section 304—the day the ERC decision for the application is made.
- (2A) However, from the commencement, the holder may not, under the pre-amended Act, section 289—
  - (a) replace the plan; or
  - (b) amend the plan in a way that increases the total area of land the subject of a rehabilitation program mentioned in the pre-amended Act, section 288(1)(c)(iii).

**36 Clause 203 (Insertion of new ch 13, pt 27)**

Page 175, after line 19—

*insert—*

- (4) However, subsection (5) applies if—
  - (a) the holder fails to comply with the notice given to the holder under section 754 because the holder purported to give the administering authority a proposed PRC plan in compliance with the notice; and
  - (b) the administering authority gives the holder written notice for a decision to refuse to approve the proposed PRCP schedule.
- (5) Section 431A does not apply to the holder until—

- (a) if the holder re-applies for approval of another proposed PRCP schedule within 40 business days after the written notice is given—the day the administering authority—
  - (i) issues a PRCP schedule under section 195; or
  - (ii) gives the holder written notice refusing to approve the other PRCP schedule; or
- (b) otherwise—40 business days after the written notice mentioned in subsection (4)(b) is given.

**37 Clause 203 (Insertion of new ch 13, pt 27)**

Page 175, lines 20 and 21—

*omit, insert—*

**754 Requirement for mining EA holders to give proposed PRC plan**

**38 Clause 203 (Insertion of new ch 13, pt 27)**

Page 175, lines 30 and 31—

*omit, insert—*

- (b) the period, of not less than 6 months from the day the notice is given, within which the holder must comply with the notice.

**39 Clause 203 (Insertion of new ch 13, pt 27)**

Page 176, after line 2—

*insert—*

- (3) The holder is not required to comply with a requirement under section 126C(1)(g) or (h) or 126D(2) or (3) for the proposed PRCP schedule for the plan in relation to land if—

- (a) an outcome for the land has been identified under a land outcome document; and
- (b) the outcome for the land is the same as, or substantially similar to, the outcome for the land if it were a non-use management area under a PRCP schedule.

*Example of an outcome for land—*

A residual void or pit authorised under an environmental authority may constitute the outcome for the land on which the void or pit is located, even though the environmental authority or any other land outcome document does not expressly state anything about the outcome for the land, other than authorising the void or pit.

- (4) However, if the environmental authority or any other land outcome document does not state sufficient detail to identify either the location or area of the land to which the outcome relates, the proposed PRC plan must state—
  - (a) if the area is not identified—how the total area of the land to which the outcome relates will be minimised; and
  - (b) if the location is not identified—how the mining EA holder will ensure the location of the land to which the outcome relates minimises risks to the environment.
- (5) For subsections (3) and (4), if there is an inconsistency in land outcome documents for land, the document appearing first in the list mentioned in section 750, definition *land outcome document* prevails to the extent of the inconsistency.
- (6) The administering authority must keep a register of an extract of a written agreement mentioned in section 750, definition *land outcome document*, paragraph (f) that identifies the location or area of land mentioned in subsection (4).
- (7) Sections 541, 542 and 543 apply in relation to a

register mentioned in subsection (6).

- (8) Subsection (9) applies in relation to a proposed PRC plan required under a notice mentioned in subsection (1).
- (9) A regulation may prescribe exceptional circumstances, in addition to a matter mentioned in section 126D(5), in which land the subject of the PRC plan that is not being mined is taken not to be available for rehabilitation for section 126D(4).

**40 Clause 203 (Insertion of new ch 13, pt 27)**

Page 176, lines 14 to 34 and page 177, lines 1 to 11—

*omit, insert—*

- (3) However, for applying the assessment process under subsection (2)—
  - (a) the periods mentioned in sections 144(a)(ii), 168(1)(b) and 194(2)(a)(ii) are taken to apply to the administering authority for the assessment process; and
  - (b) the submission period mentioned in section 154 is taken to be the period, of at least 20 business days after the giving and publishing of the application notice for the PRC plan under section 152, decided by the administering authority; and
  - (c) the application stage and notification stage apply subject to sections 755A and 755B.
- (4) If a requirement for the proposed PRCP schedule does not apply to the holder under section 754(3), section 176A(3) does not apply in relation to the administering authority in deciding whether to approve the schedule to the extent the requirement does not apply to the holder.

**41 Clause 203 (Insertion of new ch 13, pt 27)**

Page 177, lines 14 to 18—

*omit, insert—*

approve the PRCP schedule for the proposed PRC plan under sections 176A and 194B, the authority must also have regard to—

- (a) each land outcome document for land to which the proposed PRC plan relates; and

**42 Clause 203 (Insertion of new ch 13, pt 27)**

Page 177, after line 23—

*insert—*

**755A Application of requirement for public interest evaluation for application stage**

- (1) Section 136A does not apply for the assessment of a proposed PRC plan under section 755(2), unless—
  - (a) the PRCP schedule for the proposed PRC plan identifies a non-use management area under section 126D(2)(b); and
  - (b) the holder is required to comply with a requirement under section 126C(1)(g) or (h) or 126D(2) or (3) for the proposed PRCP schedule in relation to land because section 754(3) does not apply for the area.
- (2) Subsection (3) applies if—
  - (a) a public interest evaluation is required for the assessment of the proposed PRC plan; and
  - (b) the qualified entity carrying out the evaluation considers an alternative option to approving the area as a non-use management area under section 316PA(2)(c); and

- (c) the financial viability of the mining activity or resource project would be jeopardised if the alternative option were implemented.
- (3) The report for the public interest evaluation under section 136A(2) must include a consideration of the stage of, and the land outcome documents relating to, the mining activity or resource project.

### **755B Application of notification stage**

- (1) This section applies if either of the following matters is satisfied in relation to land the subject of a proposed PRCP schedule—
  - (a) the outcome for land under a land outcome document is the same as, or substantially similar to, the post-mining land use or non-use management area stated for the area under the proposed PRCP schedule; or
  - (b) for an area of land stated in a land outcome document that could be a proposed non-use management area under the PRCP schedule—the schedule proposes a post-mining land use for all or part of the land.

#### *Example of an outcome for land—*

A residual void or pit authorised under an environmental authority may constitute the outcome for the land on which the void or pit is located, even though the environmental authority or any other land outcome document does not expressly state anything about the outcome for the land, other than authorising the void or pit.

- (2) The notification stage under chapter 5, part 4 does not apply for the assessment of the proposed PRCP schedule under section 755(2), to the extent of the matter.
- (3) If the notification stage under chapter 5, part 4 applies for the assessment process because the outcome for land under a land outcome document

is different to the outcome for the land under the proposed PRCP schedule, a submission under section 160 may relate only to the difference in outcome for the area.

- (4) For applying subsection (2), if there is an inconsistency in land outcome documents for land, the document appearing first in the list mentioned in section 750, definition *land outcome document* prevails to the extent of the inconsistency.

**43 Clause 203 (Insertion of new ch 13, pt 27)**

Page 178, lines 4 to 12, from ‘the’ to ‘relevant register.’—  
*omit, insert—*

chapter 5, part 6 applies as if the amendment were a matter mentioned in section 215(2).

**44 Clause 203 (Insertion of new ch 13, pt 27)**

Page 179, after line 31—  
*insert—*

(3A) Also, if—

- (a) the administering authority has given the holder of the environmental authority a notice about a proposed requirement to increase the amount of financial assurance under the pre-amended Act, section 306; and
- (b) the requirement has not taken effect before the commencement;

the condition continues to have effect until the increased amount of financial assurance has been given to the administering authority.

(3B) In addition, if section 760 applies for the financial assurance, the condition continues to have effect

until—

- (a) the application mentioned in that section is decided; and
- (b) the amount of financial assurance under the decision has been given to the administering authority.

**45 Clause 203 (Insertion of new ch 13, pt 27)**

Page 179, lines 33 and 34, ‘subsection (2) or (3)’—

*omit, insert—*

this section

**46 Clause 203 (Insertion of new ch 13, pt 27)**

Page 182, line 33, after ‘day’—

*insert—*

or, if the plan period for the holder’s plan of operations for the activity ends earlier, the day the plan period ends

**47 Clause 203 (Insertion of new ch 13, pt 27)**

Page 184, line 15, ‘if initial ERC period ends’—

*omit.*

**48 Clause 204 (Amendment of sch 2 (Original decisions))**

Page 186, line 2, after ‘sections’—

*insert—*

233(2)(b)(ii),

**49 Clause 204 (Amendment of sch 2 (Original decisions))**

Page 186, table after line 6—

*insert—*

303 decision to require the holder of an environmental authority for a resource activity to apply for a new ERC decision

**50 Clause 204 (Amendment of sch 2 (Original decisions))**

Page 186, after line 18—

*insert—*

(5A) Schedule 2, part 1, division 3, entry for section 234(2), ‘234(2)’—

*omit, insert—*

234

**51 Clause 205 (Amendment of sch 4 (Dictionary))**

Page 188, after line 7—

*insert—*

*annual notice* see section 316I(2).

**52 Clause 205 (Amendment of sch 4 (Dictionary))**

Page 189, line 12, ‘, for chapter 5,’—

*omit.*

**53 Clause 205 (Amendment of sch 4 (Dictionary))**

Page 189, after line 19—

*insert—*

*public interest consideration* see section 316PA(3).

*public interest evaluation* see section 112.

**54 Clause 205 (Amendment of sch 4 (Dictionary))**

Page 190, after line 21—

*insert—*

(5A) Schedule 4, definition *application documents*—

*insert—*

(d) a report evaluating an EIS under the *State Development and Public Works Organisation Act 1971*, section 34D; and

(e) an EIS assessment report.

**55 Clause 217 (Amendment of sch 1 (Documents to which this Act does not apply))**

Page 197, lines 16 to 25—

*omit, insert—*

**217 Amendment of sch 3 (Exempt information)**

Schedule 3, section 12(1)—

*insert—*

- *Mineral and Energy Resources (Financial Provisioning) Act 2018*, section 80(2) or 82(2)

**56 Clause 218 (Amendment of sch 2 (Entities to which this Act does not apply))**

Page 198, lines 1 to 8—

*omit.*

**57 After clause 218**

Page 198, after line 8—

*insert—*

**Division 5A      Amendment of State  
Development and Public  
Works Organisation Act  
1971**

**218A Act amended**

This division amends the *State Development and Public Works Organisation Act 1971*.

**218B Amendment of s 47C (Application of  
Coordinator-General's report to environmental  
authority)**

Section 47C(1), 'for the proposed environmental authority.'—

*omit, insert—*

for—

- (a) the proposed environmental authority;  
and
- (b) any proposed PRCP schedule relating to the environmental authority under the Environmental Protection Act.

**58      Part 8, division 6 (Amendment of Waste Reduction and Recycling Amendment Act 2017)**

Page 198, lines 9 to 24—

*omit.*

**59      Schedule 1 (Dictionary)**

Page 199, line 6, 'section 799F'—

*omit, insert—*

section 799C

**60 Schedule 1 (Dictionary)**

Page 202, line 5, ‘section 799G’—

*omit, insert—*

section 799D

**61 Long title**

Long title, ‘Waste Reduction and Recycling Amendment Act 2017’—

*omit, insert—*

*State Development and Public Works  
Organisation Act 1971*

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