

# Natural Resources and Other Legislation Amendment Bill 2019

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

**1 Clause 40 (Amendment of s 100 (Public notice of closure))**

Page 38, line 29, ‘or’—

*omit, insert—*

and

**2 Clause 41 (Replacement of ch 6, pt 4, div 3A (Mediation for disputes about terms of particular subleases))**

Page 49, line 19—

*omit, insert—*

after the appointment of the arbitrator; or

- (c) if the parties to the dispute agree to extend the period mentioned in paragraph (a) or (b)—before the expiry of the extended period.

**3 Clause 41 (Replacement of ch 6, pt 4, div 3A (Mediation for disputes about terms of particular subleases))**

Page 51, line 2, ‘and’—

*omit, insert—*

to

**4 Clause 41 (Replacement of ch 6, pt 4, div 3A (Mediation for disputes about terms of particular subleases))**

Page 51, after line 16—

*insert—*

- (4A) Also, the Supreme Court may, on the application of a party to the dispute, set aside the decision if—

- (a) the decision was induced or affected by the improper behaviour of a party to the dispute; or

*Examples of improper behaviour—*

fraud, duress, undue influence

- (b) at any time during the arbitral proceeding, the party was a person with impaired capacity for a matter within the meaning of the *Guardianship and Administration Act 2000*; or
- (c) a breach of the rules of natural justice happened in relation to the making of the decision.

**5 After clause 42**

Page 52, after line 16—

*insert—*

**42A Amendment of section 390C (Definitions for chapter)**

Section 390C, definitions *occupier* and *of—omit.*

**6 Clause 48 (Amendment of sch 6 (Dictionary))**

Page 63, line 20, from ‘definition’—

*omit, insert—*

definitions *occupier* and *of—*

**7 Clause 48 (Amendment of sch 6 (Dictionary))**

Page 64, line 5, before ‘chapter 7’—

*insert—*

chapter 6A and

**8 After clause 258**

Page 148, after line 16—

*insert—*

**258A Insertion of new s 139A**

After section 139—

*insert—*

**139A Periodic reduction deferred if higher tenure application undecided**

- (1) This section applies if—
  - (a) the holder of an exploration permit has made an application for a mineral development licence or mining lease in relation to an identified area (the ***higher tenure application***); and
  - (b) at the end of a period mentioned in section 139(1), the higher tenure application has not been decided.
- (2) The area of the permit is not required to be reduced under section 139(1) by the identified area until—
  - (a) if the higher tenure application is granted—the day the tenure is granted; or
  - (b) if the higher tenure application is withdrawn or refused—20 business days after the day the application is withdrawn or refused.
- (3) Also, if the higher tenure application is withdrawn or refused, the holder of the permit may, before the end of the period of 20 business days mentioned in subsection (2)(b), amend the holder's submission under section 139(5) to the chief executive.
- (4) The chief executive must consider an amended submission given under subsection

(3) instead of any earlier submission made by the holder.

(5) In this section—

*identified area* means the sub-blocks of land identified under section 139(5) as the sub-blocks of land to which an exploration permit will not apply after a reduction required under section 139(1).

**9 Clause 273 (Insertion of new ch 15, pt 15, div 2)**

Page 160, after line 21—

*insert—*

(3) However, if the application is related to a reduction in the area of the permit, the application is taken to be withdrawn and section 857 applies in relation to the permit.

**10 Clause 273 (Insertion of new ch 15, pt 15, div 2)**

Page 161, after line 30—

*insert—*

(3A) However—

(a) if an application mentioned in subsection (2), made before the commencement, is related to a reduction in the area of the permit, the application is taken to be withdrawn and section 857 applies in relation to the permit; and

(b) if an application mentioned in subsection (2) or (3), made after the commencement, is related to a reduction in the area of the permit, the application is invalid and section 857 applies in relation to the permit.

**11 Clause 273 (Insertion of new ch 15, pt 15, div 2)**

Page 162, line 13 to page 164, line 30—

*omit, insert—*

**857 Relinquishment requirements for existing exploration permits**

- (1) This section applies to an exploration permit in force on the commencement.
- (2) Despite new section 139(1), if the permit is renewed after the commencement, the area of the permit is required to be reduced only by 50% of the area of the permit, as existing on the commencement, by the day that is 5 years after the permit is first renewed after the commencement.
- (3) Despite new section 139(1) and subsection (2), if the permit is an exploration permit for coal to which the Common Provisions Act, section 232(1) applies, and no agreement has been made in relation to the permit under section 232(2) of that Act, the area of the permit is not required to be reduced by any amount.
- (4) Subsections (2) and (3) apply despite any condition about reducing the area of the permit determined by the Minister under section 141(1)(j) before the commencement.
- (5) New sections 139 and 139A apply in relation to a reduction in the area of the permit under subsection (2) as if it were a reduction under new section 139(1).
- (6) For subsection (5), a reference in new sections 139 and 139A to section 139(1) is taken to be a reference to subsection (2).

**12 Clause 276 (Amendment of s 35 (Call for tenders))**

Page 168, line 27 to page 169, lines 1 and 2—

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*omit, insert—*

(3) Section 35(5)—

*omit, insert—*

(5) Subsection (2)(h)(i) does not limit the Minister's power to decide conditions of the authority if it is granted.

**13 Clause 277 (Amendment of s 41 (Deciding whether to grant authority to prospect))**

Page 169, after line 10—

*insert—*

(4) Subsection (3) does not limit or otherwise affect section 42(3)(a) or (3A).

**14 Clause 313 (Amendment of sch 2 (Dictionary))**

Page 192, after line 9—

*insert—*

*exploration project* means a project involving 2 or more authorities to prospect that have a unifying exploration purpose.

**15 After clause 357**

Page 230, after line 14—

*insert—*

**Part 1A                      Amendment of  
Planning Act 2016**

**357A Act amended**

This part amends the *Planning Act 2016*.

**357B Insertion of new ch 8, pt 6**

Chapter 8—

*insert—*

**Part 6                      Validation and  
transitional  
provisions for  
particular matters**

**348 Validation of particular development  
approvals**

- (1) This section applies in relation to a development approval, whether or not the approval is still in force, that—
  - (a) was granted or amended on or after 15 September 2000 but before the commencement; and
  - (b) relates, or related, to the clearing of native vegetation.
- (2) The grant or amendment of the development approval is, and is taken to have always been, as valid as it would have been if a reference to infrastructure in a relevant provision always included a reference to a building, or other structure, built or used for any purpose.
- (3) Anything done under the development approval is, and is taken to have always been, as valid and lawful as it would have been if a reference to infrastructure in a relevant provision always included a reference to a building, or other structure, built or used for any purpose.
- (4) To remove any doubt it is declared that a reference in this section to the grant or amendment of the development approval

includes the imposition of conditions on the approval.

(5) In this section—

***relevant provision***, in relation to the grant or amendment of a development approval, means—

- (a) if the repealed *Integrated Planning Act 1997*, as in force before 4 October 2004, applied to the grant or amendment—the repealed *Integrated Planning Act 1997*, schedule 8, section 22, definitions *essential management* and *routine management*; or
- (b) if the repealed *Integrated Planning Act 1997*, as in force on or after 4 October 2004, applied to the grant or amendment—the repealed *Integrated Planning Act 1997*, schedule 10, definitions *essential management* and *routine management*; or
- (c) if the repealed *Sustainable Planning Act 2009* applied to the grant or amendment—the repealed *Sustainable Planning Regulation 2009*, schedule 26, definitions *essential management* and *routine management*; or
- (d) if this Act applied to the grant or amendment—the *Planning Regulation 2017*, schedule 24, definitions *essential management* and *routine management*.

### **349 Particular existing applications**

- (1) This section applies in relation to an application for the grant or amendment of a development approval—



- (a) made on or after 15 September 2000 under this Act, the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997*; but
  - (b) not decided before the commencement.
- (2) For the purpose of deciding the application, a reference to infrastructure in a relevant provision includes, and is taken to have always included, a reference to a building, or other structure, built or used for any purpose.
- (3) In this section—
- deciding***, an application, includes dealing with the application.
- relevant provision***, in relation to an application for the grant or amendment of a development approval, means—
- (a) if the repealed *Integrated Planning Act 1997*, as in force before 4 October 2004, applies to deciding the application—the repealed *Integrated Planning Act 1997*, schedule 8, section 22, definitions *essential management* and *routine management*; or
  - (b) if the repealed *Integrated Planning Act 1997*, as in force on or after 4 October 2004, applies to deciding the application—the repealed *Integrated Planning Act 1997*, schedule 10, definitions *essential management* and *routine management*; or
  - (c) if the repealed *Sustainable Planning Act 2009* applies to deciding the application—the repealed *Sustainable Planning Regulation 2009*, schedule 26, definitions *essential management* and *routine management*; or

- (d) if this Act applies to deciding the application—the *Planning Regulation 2017*, schedule 24, definitions *essential management* and *routine management*.

### **350 Validation of particular operational work**

- (1) This section applies in relation to operational work, that is the clearing of native vegetation, if the work was carried out—
  - (a) on or after 15 September 2000 but before the commencement; and
  - (b) without a development approval.
- (2) The carrying out of the work without a development approval is, and is taken to have always been, as valid and lawful as it would have been if, at the time the work was carried out, a reference to infrastructure in a relevant provision included a reference to a building, or other structure, built or used for any purpose.
- (3) In this section—

***relevant provision*** means—

  - (a) in relation to operational work carried out before 4 October 2004—the repealed *Integrated Planning Act 1997*, schedule 8, section 22, definitions *essential management* and *routine management*; or
  - (b) in relation to operational work carried out on or after 4 October 2004 but before 18 December 2009—the repealed *Integrated Planning Act 1997*, schedule 10, definitions *essential management* and *routine management*; or

- (c) in relation to operational work carried out on or after 18 December 2009 but before 3 July 2017—the repealed *Sustainable Planning Regulation 2009*, schedule 26, definitions *essential management* and *routine management*; or
- (d) in relation to operational work carried out on or after 3 July 2017—the *Planning Regulation 2017*, schedule 24, definitions *essential management* and *routine management*.

## **Part 1B                    Amendment of    Planning Regulation    2017**

### **357C Regulation amended**

This part amends the *Planning Regulation 2017*.

### **357D Amendment of sch 24 (Dictionary)**

Schedule 24—

*insert—*

*infrastructure*, for the definitions *essential management* and *routine management*, includes a building, or other structure, built or used for any purpose.

*Note—*

See also schedule 2 of the Act, definition *infrastructure*.

## **16            After clause 359**

Page 230, after line 26—

*insert—*

## **Part 2A                      Amendment of Vegetation Management Act 1999**

### **359A Act amended**

This part amends the *Vegetation Management Act 1999*.

### **359B Amendment of s 70A (Application of development approvals and exemptions for Forestry Act)**

Section 70A(6)—

*insert—*

*infrastructure* includes a building, or other structure, built or used for any purpose.

### **359C Amendment of pt 6, hdg (Transitional and declaratory provisions)**

Part 6, heading, ‘and declaratory provisions’—

*omit, insert—*

**, declaratory and validation provisions**

### **359D Insertion of new pt 6, div 14**

Part 6—

*insert—*

## **Division 14                      Validation provisions for particular matters**

### **145 Definition for part**

In this part—

*amended extractive industry definition* means the schedule, definition *extractive industry*, as in force immediately after the commencement.

### **146 Validation of particular decisions under s 22A**

- (1) This section applies in relation to a decision of the chief executive under section 22A made on or after 21 May 2004 but before the commencement.
- (2) The decision is, and is taken to have always been, as valid as it would have been if, at the time the decision was made—
  - (a) a reference to built infrastructure in section 22A or the schedule included a reference to a building, or other structure, built or used for any purpose; and
  - (b) a reference to extractive industry in section 22A had the meaning given by the amended extractive industry definition.
- (3) Anything done as a result of the decision is, and is taken to have always been, as valid and lawful as it would have been if, at the time the decision was made—
  - (a) a reference to built infrastructure in section 22A or the schedule included a reference to a building, or other structure, built or used for any purpose; and
  - (b) a reference to extractive industry in section 22A had the meaning given by

the amended extractive industry definition.

### **147 Validation of use of particular forest products**

- (1) This section applies in relation to a forest product cleared on or after 21 May 2004 but before the commencement.
- (2) The use of the forest product is, and is taken to have always been, as valid and lawful as it would have been if, at the time the product was used, a reference to infrastructure in section 70A(5) included a reference to a building, or other structure, built or used for any purpose.

### **148 Validation of accepted development vegetation clearing code and particular activities**

- (1) This section applies in relation to an accepted development vegetation clearing code made before the commencement.
- (2) The making of the code is, and is taken to have always been, as valid as it would have been if, at the time the code was made—
  - (a) a reference to built infrastructure in the schedule, definition *relevant infrastructure activities* included a reference to a building, or other structure, built or used for any purpose; and
  - (b) a reference to extractive industry in section 19O had the meaning given by the amended extractive industry definition.
- (3) Activity to which the code applied or applies

is, and is taken to have always been, as valid and lawful as it would have been if, at the time the code was made—

- (a) a reference to built infrastructure in the schedule, definition *relevant infrastructure activities* included a reference to a building, or other structure, built or used for any purpose; and
- (b) a reference to extractive industry in section 19O had the meaning given by the amended extractive industry definition.

### **359E Amendment of schedule (Dictionary)**

- (1) Schedule—

*insert—*

***built infrastructure*** includes a building, or other structure, built or used for any purpose.

- (2) Schedule, definition *extractive industry*, paragraph (b), example, ‘infrastructure’—

*omit, insert—*

structures

## **17 Schedule 1 (Legislation amended)**

Page 232, after line 2—

*insert—*

### **Nature Conservation Act 1992**

- 1 Section 43L(2)(a), ‘Minister administering the Land Act 1994’—**

*omit, insert—*

chief executive (lands)

**18 Long title**

Long title, after ‘the *Mineral Resources Act 1989*,’—  
*insert—*

the *Nature Conservation Act 1992*,

**19 Long title**

Long title, after ‘the *Petroleum and Gas (Production and Safety) Act 2004*,’—

*insert—*

the *Planning Act 2016*, the *Planning Regulation 2017*,

**20 Long title**

Long title, after ‘the *Valuers Registration Act 1992*,’—

*insert—*

the *Vegetation Management Act 1999*,

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