

Serial 81

Environment and Water Legislation Amendment Bill 2026

Mr Burgoyne

A Bill for an Act to amend the *Environment Protection Act 2019*, the *Environment Protection (Beverage Containers and Plastic Bags) Act 2011*, the *Heritage Act 2011*, the *Marine Pollution Act 1999*, the *Petroleum Act 1984*, the *Waste Management and Pollution Control Act 1998*, the *Water Act 1992* and various subordinate legislation

NORTHERN TERRITORY OF AUSTRALIA

ENVIRONMENT AND WATER LEGISLATION AMENDMENT ACT 2026

Act No. [] of 2026

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2026

5

An Act to amend the *Environment Protection Act 2019*, the *Environment Protection (Beverage Containers and Plastic Bags) Act 2011*, the *Heritage Act 2011*, the *Marine Pollution Act 1999*, the *Petroleum Act 1984*, the *Waste Management and Pollution Control Act 1998*, the *Water Act 1992* and various subordinate legislation

10

[Assented to [] 2026]
[Introduced [] 2026]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

15

1 Short title

This Act may be cited as the *Environment and Water Legislation Amendment Act 2026*.

2 Commencement

20

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

Part 2 Amendment of environment protection legislation

Division 1 Environment Protection Act 2019

3 Act amended

25

This Division amends the *Environment Protection Act 2019*.

4 Section 43 amended (General duty of proponents)

- (1) Section 43, heading

omit

General duty

insert

Duties

- (2) Section 43, before 'A'

insert

(1)

- (3) Section 43, at the end

insert

- (2) In addition to the general duties mentioned in subsection (1), the regulations may:

(a) prescribe additional duties to be imposed on a proponent of an action or strategic proposal under an environmental impact assessment process; and

(b) authorise the NT EPA to impose additional duties on a proponent of an action or strategic proposal under an environmental impact assessment process.

5 Section 55AA inserted

Before section 55, in Part 4, Division 3, Subdivision 4

insert

55AA Process for initial consideration of referrals

- (1) Before considering and dealing with a referral of an action or strategic proposal under section 55, the NT EPA may conduct an initial consideration of the referral in accordance with the regulations.

- (2) The NT EPA may, in accordance with the regulations, decide:

(a) to accept the referral and consider and deal with the referral in accordance with section 55; or

(b) refuse to accept, or not to proceed with, the referral.

6 Section 55 amended (Process for considering referred actions and strategic proposals)

Section 55(1)

5 *omit*

The

insert

10 Unless the NT EPA has decided to refuse to accept, or not proceed with, a referral of an action or strategic proposal under section 55AA(2)(b), the

7 Section 57 amended (NT EPA to carry out environmental impact assessments of referred actions or strategic proposals)

Section 57(2)

omit, insert

15 (2) The regulations may provide for the following matters in relation to environmental impact assessments of referred actions or strategic proposals:

(a) the process and methods for carrying out an environmental impact assessment;

20 (b) imposing duties on proponents during the process of carrying out an environmental impact assessment;

(c) the suspension or termination of an environmental impact assessment;

25 (d) conferring a function on a person or body for the purpose of carrying out an environmental impact assessment;

(e) any other matter in relation to carrying out an environmental impact assessment.

8 Section 106 amended (Amendment of environmental approval)

After section 106(3)

insert

5 (3AA) The Minister may, at the same time as making a decision on the request from an approval holder:

(a) review the environmental approval; and

10 (b) amend the environmental approval in addition to the request if the Minister considers it necessary to appropriately manage environmental impacts of the action to which the approval applies.

(3AB) A review under subsection (3AA) is taken to be part of the request of the approval holder.

9 Section 108 amended (Publication of amended environmental approval)

15 (1) Section 108, before 'The'

insert

(1)

(2) Section 108, at the end

insert

20 (2) The Minister is not required to comply with subsection (1) if the amendment is an administrative amendment.

10 Section 124C amended (Mining activities in relation to prescribed substances)

(1) Section 124C(1)

25 *omit*

substance:

insert

30 substance or under Part 9, Division 5, Subdivision 2 in relation to the issue of a mining closure certificate for a mining site on which any mining activity in respect of a prescribed substance was carried out:

(2) Section 124C(1)(a)

omit

relating to the mining of prescribed substances; and

insert

5 relating to:

- (i) the mining of prescribed substances; or
- (ii) the issue of mining closure certificates for mining sites on which any mining activity relating to prescribed substances was carried out; and

10 **11 Section 124D amended (Title holder may be mining operator or may appoint one or more mining operators)**

(1) Section 124D(3) and (4)

omit, insert

15 (3) A mining operator for a mining site may be appointed in relation to the following:

- (a) a mineral or extractive mineral;
- (b) the carrying out of a mining activity for a mineral or extractive mineral.

20 (4) To avoid doubt, a title holder of a mining site may appoint more than one mining operator in relation to:

- (a) the same kind of mineral or extractive mineral at the mining site and the carrying out of the same kind of mining activity in relation to that mineral or extractive mineral (***joint mining operators***); or

25 (b) the same kind of mineral or extractive mineral at the mining site and the carrying out of a different kind of mining activity in relation to that mineral or extractive mineral.

30 (4A) If joint mining operators are appointed in relation to a mining site, the joint mining operators are jointly and severally liable for compliance with the obligations, duties and requirements imposed on a mining operator under this Act.

(2) Section 124D(8)

omit

each concurrent mining operator

insert

5 all mining operators

12 Section 124Q amended (Exemption from licensing requirements)

After section 124Q(2)

insert

10 (2A) The Minister may direct the mining operator to give the Minister, within a specified period, any additional information the Minister considers reasonably necessary to determine whether to grant an exemption under this section.

13 Section 124QA inserted

15 After section 124Q

insert

124QA Termination of application for exemption

20 (1) The Minister may, by written notice to the mining operator mentioned in section 124Q(2), terminate an application for an exemption mentioned in section 124Q(2), if:

(a) the Minister has directed the mining operator to give the Minister additional information under section 124Q(2A) and the mining operator has failed to give that information within the period specified in the direction; or

25 (b) the mining operator is no longer the mining operator for the mining site to which the application relates; or

(c) the mining operator no longer holds an environmental approval for the mining activity to which the application relates; or

30 (d) another circumstance prescribed by regulation applies.

(2) The Minister must not terminate an application in a circumstance mentioned in subsection (1)(a) or (d) unless the Minister has given written notice (a **show cause notice**) to the mining operator:

5

(a) stating the Minister's intention to terminate the application for an exemption; and

(b) asking the mining operator to show cause why the application should not be terminated.

(3) The show cause notice must specify the date by which the mining operator may show cause.

10

(4) The date specified in the show cause notice must be not less than 10 business days after the date of the notice.

(5) The Minister must consider any response given by the mining operator to the show cause notice in making a decision whether to terminate the application.

15

14 Section 124S amended (General duties of mining operator)

(1) Section 124S, heading

omit

General duties

insert

20

Duties

(2) Section 124S, before 'A'

insert

(1)

(3) Section 124S, at the end

25

insert

(2) In addition to the general duties mentioned in subsection (1), the regulations may:

30

(a) prescribe additional duties to be imposed on a mining operator in applying for an environmental (mining) licence for a mining activity and carrying out a mining activity under the environmental (mining) licence; and

- (b) authorise the Minister to impose additional duties on a mining operator in applying for an environmental (mining) licence for a mining activity and carrying out a mining activity under the environmental (mining) licence.

5 **15 Section 124W replaced**

Section 124W

repeal, insert

124W Actions following completion of review

- 10 (1) After completing a review under section 124V, the Minister may do any the following:

- (a) revoke the risk criteria;
- (b) revoke and declare new risk criteria;
- (c) revoke the standard conditions;
- (d) revoke and approve new standard conditions;

- 15 (e) take no further action.

- (2) As soon as practicable after revoking the risk criteria or standard conditions under subsection (1), the Minister must publish notice of the revocation.

- 20 (3) As soon as practicable after declaring new risk criteria or approving new standard conditions under subsection (1), the Minister must publish:

- (a) the risk criteria or standard conditions; and
- (b) for a decision mentioned in subsection (1)(a) or (b) – a statement of reasons for the decision.

25 **124WA Administrative amendment to risk criteria or standard conditions**

- (1) The Minister may amend the risk criteria or standard conditions without conducting a review under section 124V if the amendment is an administrative amendment.

- 30 (2) As soon as practicable after amending the risk criteria or standard conditions under subsection (1), the Minister must publish the amended risk criteria or standard conditions.

16 Section 124ZE amended (Application for environmental (mining) licence)

After section 124ZE(6)

insert

- 5 (7) If the Minister decides that an application under this section would be more appropriately dealt with as an application to amend an existing environmental (mining) licence:
- (a) the Minister may deal with the application as if it were an application to amend the environmental (mining) licence; and
- 10 (b) section 124ZS applies.

17 Section 124ZEA inserted

After section 124ZE

insert

124ZEA Consolidation of applications

- 15 (1) If a mining operator makes more than one application for an environmental (mining) licence and each application relates to the same, or substantially the same, mining activity or the same, or substantially the same, mining site, the Minister may, by written notice, require the mining operator to consolidate the applications
- 20 into one application.
- (2) If a mining operator fails to comply with a requirement under subsection (1), the Minister may:
- (a) refuse to accept an application made by the mining operator; or
- 25 (b) despite section 124ZE(5), refuse to publish and assess an application made by the mining operator.
- (3) The Minister may, on the Minister's own initiative, consolidate 2 or more applications for an environmental (mining) licence into one application if the applications are made by the same mining operator and relate to the same, or substantially the same, mining activity or the same, or substantially the same, mining site.
- 30 (4) The Minister must not consolidate 2 or more applications for an environmental (mining) licence into one application unless the Minister has first complied with subsections (5) and (8).

(5) The Minister must give written notice (a **show cause notice**) to the mining operator:

(a) stating the Minister's intention to consolidate the applications into one application; and

5 (b) asking the mining operator to show cause why the applications should not be consolidated into one application.

(6) The show cause notice must specify the date by which the mining operator may show cause.

10 (7) The date specified in the show cause notice must not be less than 10 business days after the date of the notice.

(8) The Minister must consider any response given by the mining operator to the show cause notice in making a decision under subsection (3).

15 (9) If the Minister gives a show cause notice under this section, the required time under section 124ZM for the Minister to decide the application for an environmental (mining) licence ceases to run during the period mentioned in subsection (6).

18 Section 124ZFA inserted

After section 124ZF

20 *insert*

124ZFA Termination of application

(1) The Minister may, by written notice to the mining operator mentioned in section 124ZE(1), terminate an application for an environmental (mining) licence, if:

25 (a) the Minister has directed the mining operator to give the Minister additional information under section 124ZF and the mining operator has failed to give that information within the period specified in the direction; or

30 (b) the mining operator is no longer the mining operator for the mining site to which the application relates; or

(c) the mining operator no longer holds an environmental approval for the mining activity to which the application relates; or

(d) another circumstance prescribed by regulation applies.

- 5 (2) The Minister must not terminate an application in a circumstance mentioned in subsection (1)(a) or (d) unless the Minister has given written notice (a **show cause notice**) to the applicant:
- (a) stating the Minister's intention to terminate the application for an environmental (mining) licence; and
- (b) asking the mining operator to show cause why the application should not be terminated.
- (3) The show cause notice must specify the date by which the mining operator may show cause.
- 10 (4) The date specified in the show cause notice must not be less than 10 business days after the date of the notice.
- (5) The Minister must consider any response given by the mining operator to the show cause notice in making a decision whether to terminate the application.
- 15 (6) If the Minister gives a show cause notice under this section, the required time under section 124ZM for the Minister to decide the application for an environmental (mining) licence ceases to run during the period mentioned in subsection (3).

19 Section 124ZK amended (Modified condition licence)

- 20 (1) Section 124ZK(1)(d)
omit (all references)
amended
insert
replaced
- 25 (2) Section 124ZK(4)
omit, insert
- 30 (4) If a standard condition that applies to a modified condition licence is replaced under section 124W, the modified condition licence is subject to the replaced standard condition when the replaced standard condition takes effect to the extent that the replaced standard condition is not inconsistent with the existing modifications in the licence.

20 Section 124ZL amended (Tailored condition licence)

(1) Section 124ZL(1)(c), after 'differ from'

insert

, or are additional to,

5 (2) Section 124ZL(1)(e)

omit (all references)

amended

insert

replaced

10 **21 Section 124ZS amended (General powers of Minister to amend environmental (mining) licence conditions)**

(1) Section 124ZS, heading

omit

conditions

15 (2) Section 124ZS(1)

omit

the conditions (other than the standard conditions) of

(3) Section 124ZS(1)(b) and (c)

omit

20 the conditions

insert

the environmental (mining) licence

(4) After section 124ZS(1)

insert

25 (1A) The Minister must not, under this section, amend the standard conditions that apply to an environmental (mining) licence.

(1B) The Minister may, at the same time as making a decision on the application of a mining operator:

- (a) review the environmental (mining) licence; and
- (b) amend the environmental (mining) licence in addition to the request if the Minister considers it necessary to appropriately manage environmental impacts of the mining activity to which the licence applies.

(1C) A review under subsection (1B) is taken to be part of the application of the mining operator.

(5) Section 124ZS(3), (4) and (5)

omit

the conditions of

(6) Section 124ZS(5)(b)

omit

conditions

insert

licence

(7) After section 124ZS(5)

insert

(5A) If the Minister decides to amend an environmental (mining) licence under subsection (1), the Minister must give the following to the mining operator:

- (a) a notice of the decision to amend the licence;
- (b) for a modified condition licence or a tailored condition licence – a statement of reasons for the decision to amend the licence.

- (4) Section 124ZS(2) to (5A) applies in relation to an amendment made under subsection (2) other than an administrative amendment.
- (5) The Minister must give to the mining operator:
- (a) notice of a decision under subsection (1) or (2); and
 - 5 (b) if the decision relates to a modified condition licence or a tailored condition licence – a statement of reasons for the decision.
- (6) As soon as practicable after making a decision under subsection (1) or (2), the Minister must publish the following:
- 10 (a) if the Minister decides to consolidate 2 or more environmental (mining) licences and grant one environmental (mining) licence in their place – the environmental (mining) licence granted under subsection (1);
 - (b) notice of the decision;
 - 15 (c) if the environmental (mining) licence is a modified condition licence or a tailored condition licence – a statement of reasons for the decision.
- (7) If the Minister grants an environmental (mining) licence under subsection (1), the environmental (mining) licences that were
20 consolidated are revoked.

124ZSC Show cause process for consolidation of licences

- (1) The Minister must not, on the Minister's own initiative, make a decision under section 124ZSB unless the Minister has first complied with this section.
- 25 (2) The Minister must give written notice (a **show cause notice**) to the mining operator mentioned in section 124ZSB(1):
- (a) stating the Minister's intention to consolidate the environmental (mining) licences into one environmental (mining) licence; and
 - 30 (b) asking the mining operator to show cause why the environmental (mining) licences should not be consolidated into one licence.
- (3) The show cause notice must specify the date by which the mining operator may show cause.

- (4) The date specified in the show cause notice must not be less than 10 business days after the date of the notice.
- (5) The Minister must consider any response given by the mining operator to the show cause notice in making a decision under section 124ZSB.

23 Section 124ZZB amended (Revocation of environmental (mining) licence)

- (1) After section 124ZZB(e)

insert

(ea) at the request of the mining operator; or

(eb) if the Minister is satisfied that the environmental (mining) licence is no longer required; or

- (2) Section 124ZZB, at the end

insert

Examples for paragraph (eb)

1 *The appointment of the mining operator has been terminated by the title holder for the mining site and the title holder becomes the mining operator or appoints another mining operator for the site.*

2 *The relevant mineral interest for the mining site has been cancelled, ceased, transferred or surrendered and the mining operator is no longer the mining operator for the mining site.*

24 Section 124ZZD amended (Revocation of standard condition licence and issue of other environmental (mining) licence)

After section 124ZZD(d)

insert

(da) at the request of the mining operator; or

25 Section 124ZZE amended (Show cause process)

- (1) Section 124ZZE(1)

omit

The

insert

Subject to subsection (7), the

(2) After section 124ZZE(6)

insert

(7) The Minister is not required to comply with this section in relation to a decision mentioned in section 124ZZB(ea) or (eb) or 124ZZD(da).

5 **26 Section 124ZZEA inserted**

After section 124ZZE

insert

124ZZEA Notice and publication of decision

10 (1) The Minister must give notice to the mining operator of a decision under section 124ZZB, 124ZZC or 124ZZD and a statement of reasons for the decision.

(2) The Minister must publish a decision under section 124ZZB, 124ZZC or 124ZZD and a statement of reasons for the decision as soon as practicable after the decision is made.

15 **27 Section 124ZZU amended (Amendment of environmental (mining) licence or grant of environmental (mining) licence instead)**

Section 124ZZU(1)

omit

20 all words from 'section' to 'condition.'

insert

sections 124ZR and 124ZS, amend the licence.

28 Section 132F amended (Unused mining security refundable)

(1) Section 132F(1)(b)

25 *omit*

satisfaction.

insert

satisfaction; or

(2) After section 132F(1)(b)

insert

5

(c) if the mineral title for a mining site to which the mining security applies has been transferred to another mineral title holder – the new mineral title holder or new mining operator appointed by the new mineral title holder has provided a mining security under an environmental (mining) licence that is at least equivalent to the amount of the mining security provided by the former mining operator; or

10

(d) if the mineral title holder for a mining site to which the mining security applies has appointed a new mining operator – the new mining operator has provided a mining security under an environmental (mining) licence that is at least equivalent to the amount of the mining security provided by the former mining operator; or

15

(e) another circumstance prescribed by regulation applies.

(3) Section 132F(4), after 'mining operator'

insert

, or former mining operator,

20

29 Section 159 amended (Appointment or authorisation of environmental officers)

After section 159(3)

insert

25

(4) If a public sector employee is appointed or authorised under subsection (1), the appointment or authorisation ceases to have effect when the person ceases to be a public sector employee.

30 Section 163 amended (General powers of environmental officers)

(1) After section 163(1)(r)

30

insert

(ra) require an approval holder or a holder of an environmental (mining) licence to provide information or produce a document or thing under the holder's control;

(2) After section 163(1)

insert

5 (1A) If an environmental officer requires an approval holder or a holder of an environmental (mining) licence to provide information or produce a document under subsection (1)(ra), the environmental officer may require the holder to do the following within a reasonable period specified in the request:

(a) provide the information or produce the document in a certain way or format;

10 (b) revise or amend information or a document previously provided to the officer.

31 Section 293 amended (Regulations)

(1) Section 293(2)(g)

omit

15 case.

insert

case;

(2) After section 293(2)(g)

insert

20 (h) provide for any matter or thing to be from time to time approved, determined, applied, dispensed with, declared, designated or regulated by the NT EPA or a specified person or specified class of persons;

25 (i) confer power or impose duties in connection with the regulations on a specified person or specified class of persons.

32 Section 293A inserted

After section 293, in Part 13, Division 8

insert

293A Validation of regulations

5 (1) This section applies in relation to a regulation that was made, or purportedly made, before the commencement of this section under the following sections of this Act:

(a) section 43;

(b) section 55AA;

10 (c) section 55;

(d) section 57;

(e) section 124S;

(f) section 293.

15 (2) A regulation to which this section applies is taken to have been validly made under the relevant section of the Act mentioned in subsection (1), as if the amendments to the Act made by the *Environment and Water Legislation Amendment Act 2026*, were in force when the regulation was made.

20 (3) To avoid doubt, any action taken or decision made under a regulation to which this section applies is taken to be valid and to always have been valid to the extent that the regulation may not have been validly made.

33 Part 16 inserted

After section 320

25 *insert*

**Part 16 Transitional matters for Environment and
Water Legislation Amendment Act 2026**

321 Definitions

In this Part:

30 ***amending Act*** means the *Environment and Water Legislation Amendment Act 2026*.

commencement means the commencement of section 3 of the amending Act.

322 Application to amend environmental approval

5 Section 106, as in force immediately before the commencement, continues to apply to a request to amend an environmental approval made but not determined before the commencement.

323 Consolidation of applications for environmental (mining) licence

Section 124ZEA, as inserted by the amending Act, applies to:

- 10 (a) an application for an environmental (mining) licence made after the commencement; and
- (b) an application for an environmental (mining) licence that was made but not determined before the commencement.

324 Application to amend environmental (mining) licence

15 Section 124ZS, as in force immediately before the commencement, continues to apply to an application to amend an environmental (mining) licence made but not determined before the commencement.

34 Act further amended

20 Schedule 1 has effect.

Division 2 Environment Protection Regulations 2020

35 Regulations amended

This Division amends the *Environment Protection Regulations 2020*.

36 Regulations 233J to 233L replaced

Regulations 233J to 233L

repeal, insert

233J Consultation on risk criteria

- 5 (1) If a notice under regulations 233G and 233H did not include any proposed revised risk criteria and the Minister proposes to declare revised risk criteria as new risk criteria, the Minister must:
- (a) publish a notice of the proposed revised risk criteria; and
- 10 (b) make reasonable efforts to notify a mining operator mentioned in regulation 233H(1) of the proposed revised risk criteria.
- (2) Regulations 233G and 233H apply in relation to the publication and provision of notice regarding the proposed revised risk criteria.

233K Result of consultation

15 Before completing the review, the Minister must consider any written comments received on the risk criteria and any proposed revised risk criteria within the comment period specified in the relevant notice under regulations 233G, 233H and 233J.

37 Regulation 233N amended (Consultation with mining operators)

20 Regulation 233N(2)

omit, insert

- (2) The notice:
- (a) may include any proposed new standard conditions; and
- 25 (b) must invite the mining operator to make written comments to the Minister on the standard conditions and any proposed new standard conditions within the period specified in the notice.

38 Regulation 233P replaced

Regulation 233P

repeal, insert

233P Consultation on proposed new standard conditions

- 5 (1) If the notice under regulation 233N(1) does not include proposed new standard conditions and the Minister proposes to approve new standard conditions, the Minister must make reasonable efforts to notify a mining operator mentioned in regulation 233N(1) of the proposed new standard conditions.
- 10 (2) Regulation 233N applies to the provision of notice on the proposed new standard conditions.

233PA Result of consultation

15 Before completing the review, the Minister must consider any written comments received on the standard conditions and any proposed new standard conditions within the comment period specified in the notice under regulation 233N or 233P.

39 Regulation 233T amended (Public consultation)

- (1) Regulation 233T(5), definition ***prescribed period***,
paragraph (a)(i), (ia) and (ii)
- 20 *omit*
- 15
- insert*
- 10
- (2) Regulation 233T(5), definition ***prescribed period***,
25 paragraph (b)(i), (ia) and (ii)
- omit*
- 25
- insert*
- 20

40 Regulation 233W amended (Public consultation)

(1) Regulation 233W(3)

omit

20 business days

5

insert

the prescribed period

(2) After regulation 233W(4)

insert

(5) In subsection (3):

10

prescribed period means:

(a) for a modified condition licence:

(i) for an exploration activity – 10 business days; and

(ii) for fossicking – 10 business days; and

(iii) for extractive operations – 10 business days; and

15

(iv) for mining operations – 25 business days; or

(b) for a tailored condition licence:

(i) for an exploration activity – 20 business days; and

(ii) for fossicking – 20 business days; and

(iii) for extractive operations – 20 business days; and

20

(iv) for mining operations – 30 business days.

41 Regulation 234B inserted

After regulation 234A, in Part 8

insert

234B Additional circumstances for refund of unused mining security

5 (1) For section 132F(1)(e) of the Act, the following circumstances are prescribed:

(a) the Minister is satisfied that special circumstances exist that justify refunding the amount of the mining security;

10 (b) the amount or value of the mining security held is less than \$4 000.

(2) In determining whether special circumstances exist for subregulation (1)(a), the Minister must have regard to the following matters:

15 (a) the level of environmental disturbance that has been caused by mining activities carried out on the mining site to which the mining security applies;

(b) the period that has elapsed since the mining operator was responsible for the mining site to which the mining security applies;

20 (c) the current ownership of the mineral title for the mining site to which the mining security applies;

(d) the relationship between the mineral title holder for the mining site to which the mining security applies and the mining operator.

25 **42 Regulation 255A amended (Records of notifiable incidents)**

Regulation 255A(b)

omit

Minister.

insert

30 CEO.

43 Part 13 inserted

After regulation 282

insert

**Part 13 Transitional matters for Environment and
Water Legislation Amendment Act 2026**

283 Definitions

amending Act means the *Environment and Water Legislation Amendment Act 2026*.

commencement means the commencement of section 35 of the *Environment and Water Legislation Amendment Act 2026*.

**284 Comment period for public consultation for application of
environmental (mining) licence**

Regulation 233T, as in force immediately before the commencement, continues to apply in relation to a prescribed period that had commenced but had not elapsed before the commencement.

**285 Comment period for public consultation for amendment of
conditions of environmental (mining) licences**

Regulation 233W, as in force immediately before the commencement, continues to apply in relation to a prescribed period that had commenced but had not elapsed before the commencement.

**44 Schedule 2 amended (Infringement notice offences and
prescribed amounts)**

Schedule 2, entry for *Environmental offences*

omit

124ZZZA(3), (4) and (5),

insert

124ZZZA(4) and (5),

**Part 3 Amendment of Environment Protection
(Beverage Containers and Plastic Bags)
Act 2011**

45 Act amended

5 This Part amends the *Environment Protection (Beverage Containers and Plastic Bags) Act 2011*.

46 Sections 26 and 27 replaced

Sections 26 and 27

repeal, insert

10 **26 Duration of approval**

Subject to a suspension under section 41, a CDS approval remains in force until it is surrendered or cancelled.

27 Surrender of approval

15 The holder of a CDS approval may surrender the holder's approval by giving written notice to the CEO.

47 Section 30 amended (Variation of conditions – CEO's initiative)

Section 30(1)(b)

omit

granted or renewed,

20 *insert*

granted,

48 Section 37 amended (Grounds for suspending or cancelling approval)

(1) Section 37(d), before 'waste'

25 *insert*

a

(2) Section 37(e)
omit
or renewal of approval

5 (3) Section 37(e)
omit
application.
insert
application;

10 (4) After section 37(e)
insert
(f) the holder of the approval is not engaging in the approved activity.

49 Sections 41F and 41G replaced

15 Sections 41F and 41G
repeal, insert

41F Duration of registration

Subject to a suspension under section 41L, a registration remains in force until it is surrendered or cancelled.

20 **50 Section 41K amended (Grounds for suspending or cancelling registration)**

(1) Section 41K(d)
omit
or renewal of registration

25 (2) Section 41K(e)
omit
has ceased

insert

is not

51 Section 41M amended (Registration certificate)

Section 41M(1)(a)

5

omit

registration, or a renewal of registration,

insert

registration

52 Section 44 amended (Annual returns)

10

(1) Section 44(1)

omit

or a CDS supplier

(2) Section 44(4) and (5)

omit

15

or registration

53 Section 87 amended (Authorised officers)

After section 87(4)

insert

20

(5) If a public sector employee is appointed under subsection (2), the appointment ceases to have effect when the person ceases to be a public sector employee.

54 Part 11 inserted

After section 118

insert

**Part 11 Transitional matters for Environment and
Water Legislation Amendment Act 2026**

119 Definitions

In this Part:

amending Act means the *Environment and Water Legislation Amendment Act 2026*.

commencement means the commencement of section 45 of the amending Act.

120 Duration of existing CDS approvals

On the commencement, section 26, as amended by the amending Act, applies in relation to a CDS approval that was in force immediately before the commencement.

121 Duration of existing registration

On the commencement, section 41F, as amended by the amending Act, applies in relation to a registration that was in force immediately before the commencement.

55 Schedule 2 amended (Reviewable decisions)

Schedule 2, items 3, 4, 12 and 13

omit

Part 4 Amendment of Heritage Act 2011

56 Act amended

This Part amends the *Heritage Act 2011*.

57 Section 23 amended (Assessment period)

Section 23(3)(b)

omit

compete

5

insert

complete

58 Section 29 amended (Notice of Council's decision)

(1) Section 29(1)(b)

omit

10

(2) Section 29(1)(c), after 'heritage nomination'

insert

made by another person

(3) Section 29(2)

omit, insert

15

(2) The Council must give written notice of the decision, and the reasons for it, to the following:

(a) each person who made a submission in relation to the place or object in the public consultation period;

20

(b) if the assessment was made on a direction under section 36(3) – the Minister.

59 Section 35 amended (Minister's decision not to declare heritage place or object)

(1) Section 35(2)

omit, insert

25

(2) The Minister must give written notice of the Minister's decision, and the reasons for it, to the following:

(a) the Council;

(b) each person who made a submission in relation to the place or object in the public consultation period.

(2) Section 35(3)(b)

omit

(3) Section 35(3)(c)

omit

5 person.

insert

person who made the nomination.

60 Section 40 amended (Notice of declaration of heritage place or object)

10 (1) Section 40(1), after 'the declaration'

insert

, and the reasons for it,

(2) Section 40(2), after 'The notice'

insert

15 under subsection (1)(a)

61 Section 65 amended (Notice of revocation of declaration of heritage place or object)

(1) Section 65(2), after 'decision'

insert

20 , and the reasons for it,

(2) Section 65(3), after 'The notice'

insert

under subsection (2)(a)

62 Section 66 amended (Notice of decision not to revoke declaration of heritage place or object)

Section 66(2) and (3)

omit, insert

- 5 (3) As soon as practicable after making the decision, the Minister must:
- (a) give written notice of the decision, and the reasons for it, to the following:
 - (i) the Council;
 - 10 (ii) each person who made a submission in relation to the place or object in the public consultation period; and
 - (b) give an information notice for the decision to each interested person for the place or object.

63 Chapter 8, Part 8.2, Division 4 inserted

After section 172

15 *insert*

Division 4 Environment and Water Legislation Amendment Act 2026

173 Definitions

In this Division:

20 ***amending Act*** means the *Environment and Water Legislation Amendment Act 2026*.

commencement means the commencement of section 56 of the amending Act.

174 Reviews not commenced or determined before commencement

25

- (1) This section applies to a person mentioned in section 29(1)(b), as in force immediately before the commencement, if, immediately before the commencement:
 - 30 (a) the person was entitled under section 91 to apply for a review of a reviewable decision made before the commencement as an affected person for that decision; and

(b) the person either:

- (i) had not applied for a review of the decision; or
- (ii) had applied for a review of the decision and the review had not been decided.

5 (2) Despite the amending provision:

- (a) the person's entitlement to apply for the review is not affected; and
- (b) the review may be commenced or continued as if the amending provision had not been made.

10 (3) In this section:

amending provision means section 58 of the amending Act.

175 Appeals not commenced or determined before commencement

(1) This section applies to a person mentioned in section 35(3)(b), 40(1)(b), 65(2)(b) or 66(3)(b), as in force immediately before the commencement, if, immediately before the commencement:

15

(a) the person was entitled under section 95 to appeal against an appealable decision made before the commencement; and

(b) the person either:

20

(i) had not yet commenced an appeal against the decision; or

(ii) the person had commenced an appeal against the decision and the proceeding for the appeal had not been decided.

(2) Despite the amending provisions:

25

(a) the person's entitlement to appeal against the decision is not affected; and

(b) the appeal may be commenced or continued as if the amending provisions had not been made.

(3) In this section:

30

amending provisions means sections 59, 60, 61 and 62 of the amending Act.

Part 5 Amendment of Marine Pollution Act 1999

64 Act amended

This Part amends the *Marine Pollution Act 1999*.

65 Section 51 amended (Appointment of authorised officers)

5 After section 51(4)

insert

- (5) If a public sector employee is appointed under subsection (1), the appointment ceases to have effect when the person ceases to be a public sector employee.

10 66 Section 52 amended (Identity cards)

(1) Section 52(2)

omit

is to:

insert

15 must:

(2) Section 52(2)(a)

omit

officer;

insert

20 officer; and

(3) Section 52(2)(c)

omit, insert

(c) state the card's date of issue.

Part 6 Amendment of Petroleum Act 1984

25 67 Act amended

This Part amends the *Petroleum Act 1984*.

68 Section 87 amended (Appointment)

After section 87(2)

insert

- 5 (3) If a public sector employee is appointed under subsection (1), the appointment ceases to have effect when the person ceases to be a public sector employee.

Part 7 Amendment of waste management and pollution control legislation

Division 1 Waste Management and Pollution Control Act 1998

10 **69 Act amended**

This Division amends the *Waste Management and Pollution Control Act 1998*.

70 Section 4 amended (Interpretation)

- (1) Section 4(1), definitions ***performance agreement*** and ***this Act***
omit

- (2) Section 4(1)
- insert*
- capital dredging:***
- (a) means dredging carried out for the purposes of the following:
- (i) creating or enlarging a channel, berth, basin or harbour area or similar thing;
- (ii) creating a trench for a pipe, cable or tube;
- (iii) an activity incidental to an activity mentioned in subparagraphs (i) and (ii); but
- (b) does not include maintenance dredging.

capital dredging:

- (a) means dredging carried out for the purposes of the following:
- (i) creating or enlarging a channel, berth, basin or harbour area or similar thing;
 - (ii) creating a trench for a pipe, cable or tube;
 - (iii) an activity incidental to an activity mentioned in subparagraphs (i) and (ii); but

- (i) creating or enlarging a channel, berth, basin or harbour area or similar thing;
- (ii) creating a trench for a pipe, cable or tube;
- (iii) an activity incidental to an activity mentioned in subparagraphs (i) and (ii); but

- (ii) creating a trench for a pipe, cable or tube;

- (iii) an activity incidental to an activity mentioned in subparagraphs (i) and (ii); but

- 25 (b) does not include maintenance dredging.

dredging:

- (a) means the removal, excavation, disturbance, displacement or relocation of sediment or other material from a bed of water by mechanical, hydraulic or other similar means; and

- (b) includes the handling, movement, disposal or placement of material arising from the activity mentioned in paragraph (a).

dredging management area means an area prescribed by regulation.

5

enforceable undertaking, see section 82A(1).

maintenance dredging means dredging for the purposes of maintaining a previously dredged channel, berth, basin or harbour area at the dimensions authorised for that dredging under an Act.

10

71 Section 20 amended (Preparation and exhibition of draft objectives)

Section 20(6)

omit

and purchase

72 Part 5 heading amended

15

Part 5, heading

omit

licences and emergency authorisations

insert

20

licences, emergency authorisations and notification of prescribed activities

73 Section 38 amended (Amendment or revocation of conditions)

Section 38(2)

omit, insert

25

- (2) The NT EPA may only amend a condition or impose a new condition if any of the following occurs:

- (a) the amendment or condition is requested by the holder of the approval or licence;
- (b) the holder of the approval or licence has contravened a provision of this Act;

- 5
- (c) there is a risk of pollution resulting in material environmental harm or serious environmental harm;
 - (d) it is necessary or desirable for the purposes of an environment protection objective;
 - (e) the NT EPA is permitted or required to do so by or under this Act;
 - (f) a licence has been or is to be downgraded or upgraded under section 44;
 - (g) the approval or licence is to be transferred;
 - 10 (h) the NT EPA becomes aware of information that was not available at the time the approval or licence was granted;
 - (i) the NT EPA considers that potential environmental risks are not being appropriately managed by the holder of the approval or licence;
 - 15 (j) the NT EPA considers it necessary to align the conditions of approvals or licences that relate to a particular activity specified in Schedule 2.

74 Section 40 amended (Duration and renewal of licences)

(1) Section 40(1)

20 *omit, insert*

(1) Subject to this Act, a licence, or a renewal of a licence, remains in force until the earlier of the following:

- 25
- (a) the licence is surrendered or cancelled;
 - (b) if the NT EPA considers it appropriate to specify a period in the licence, or renewal of the licence – the expiry of that period.

(2) Section 40(2)(a)

omit, insert

- (a) made to the NT EPA before the licence expires; and

(3) After section 40(2)

insert

5

(2A) If the holder of a licence applies for renewal of a licence in accordance with this section, the licence is taken to continue in force from the day it would have expired to the day the application is determined.

75 Section 41 amended (Duration of approval)

Section 41(1)

omit, insert

10

(1) An environment protection approval permitting the construction, installation or commissioning of, or the carrying out of works in relation to, premises remains in force until the earlier of the following:

(a) a licence comes into force in relation to the premises;

15

(b) the period specified on the approval expires.

76 Section 45 amended (Suspension and cancellation of licences)

Section 45(1)

omit, insert

20

(1) If the NT EPA is satisfied that a circumstance in subsection (1A) exists, the NT EPA may, in writing:

(a) suspend the licence for a period specified in the notice under subsection (3); or

(b) cancel the licence.

25

(1A) Each of the following is a circumstance for suspending or cancelling a licence:

(a) the holder of the licence has not complied with a provision of this Act;

(b) there is a risk of pollution resulting in material environmental harm or serious environmental harm;

30

(c) the holder of the licence is not engaging in the licensed activity.

77 Part 5, Division 4 inserted

After section 46B

insert

Division 4 Notification of prescribed activities

5 **46C Person must notify NT EPA of prescribed activities**

(1) Before carrying out or conducting an activity prescribed by regulation a person must notify the NT EPA of the activity in the approved form and in accordance with the regulations.

10 (2) A person commits an offence if the person fails to comply with subsection (1).

Penalty: environmental offence level 4.

78 Section 55 amended (Purpose of compliance plans)

Section 55

omit

15 the Regulations or of an environment protection objective

insert

this Act

79 Section 56 amended (Contents of compliance plans)

(1) Section 56(c)

20 *omit*

the Regulations, or of an environment protection objective,

insert

this Act

(2) Section 56(a) to (e), at the end

25 *insert*

and

80 Section 57 amended (Voluntary compliance plans)

(1) Section 57(1)

omit

he or she:

5 *insert*

the person:

(2) Section 57(1)(b)

omit

the Regulations, or of an environmental protection objective,

10 *insert*

this Act

81 Section 59 amended (Court may order compliance plan)

Section 59(1)

omit

15 the Regulations or of an environment protection objective

insert

this Act

82 Part 8 repealed (Performance agreements)

Part 8

20 *repeal*

83 Section 70 amended (Authorised officers)

Section 70(1)

omit, insert

(1) The NT EPA may appoint:

25 (a) a person to be an authorised officer; or

(b) the members of a class of persons at a particular time or from time to time to be authorised officers.

84 Section 75 replaced

Section 75

repeal, insert

75 Compliance with requirement to provide information

5 (1) A person required to answer a question, give information or produce a document under this Act, other than section 14, is not excused from doing so on the ground that the answer, information or document might tend to incriminate the person or make the person liable to a penalty.

10 (2) Despite subsection (1), the answer, information or document is not admissible in evidence against the person, other than a body corporate, in a civil or criminal proceeding except a proceeding for an offence in which the falsity or misleading nature of the answer, information or document is relevant.

15 (3) Subsection (2) does not prevent the use of information provided by a person, other than a body corporate, in response to a requirement or direction to locate or identify further evidence that may be used in evidence against the person in a proceeding for an offence or the imposition of a penalty.

20 **85 Section 79 amended (Contents of pollution abatement notices)**

(1) Section 79(1)

omit

time:

insert

25 time, to do any of the following:

(2) Section 79(1)(c)

omit

harm; or

insert

30 harm;

(3) Section 79(1)(d)

omit

land.

insert

5

land;

(4) After section 79(1)(d)

insert

10

(e) to carry out specified testing, monitoring or reporting of polluted land or water to manage ongoing environmental harm.

86 Part 10, Division 3 inserted

After section 82

insert

Division 3 Enforceable undertakings

15

82A Enforceable undertakings

(1) An **enforceable undertaking** is an enforceable promise given under this Division by a person in relation to an alleged contravention of this Act.

(2) An enforceable undertaking may contain any of the following:

20

(a) any terms and conditions that the NT EPA considers necessary to ensure compliance with this Act;

25

(b) a requirement that the person who gives the undertaking carries out specified remediation work to rectify damage resulting from an action that is allegedly in contravention of this Act;

(c) a requirement that the person who gives the undertaking publishes notice of the alleged contravention and any act or thing done, or to be done, by the person;

30

(d) a requirement to do any other specified act or thing approved by the NT EPA.

- 5
- (3) An enforceable undertaking must include time limits for the performance of any obligations and a method to monitor compliance with the undertaking.
 - (4) The process of negotiating an enforceable undertaking is without prejudice to any party's position.

82B NT EPA may accept enforceable undertaking

- 10
- (1) The NT EPA may accept an enforceable undertaking given by a person in connection with an alleged contravention of this Act.
 - (2) The NT EPA must consider the following before accepting the enforceable undertaking:
 - (a) the nature and gravity of the conduct constituting the alleged contravention;
 - (b) if applicable – the maximum penalty provided for the alleged contravention;
 - 15 (c) the benefits of the proposed undertaking and the public interest;
 - (d) any other factor that the NT EPA considers relevant.
 - (3) The enforceable undertaking must be in writing, signed by the NT EPA and the person who gives the undertaking and dated.
 - 20 (4) The NT EPA must publish on the NT EPA's website, or in any other way determined to be appropriate by the NT EPA, notice of the decision to accept the enforceable undertaking and of the reasons for that decision.
 - 25 (5) The giving of the enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the alleged contravention.

82C Enforcement orders

- 30
- (1) The NT EPA may apply to the Supreme Court for an order under subsection (2) if the NT EPA considers that a person has contravened an enforceable undertaking accepted by the NT EPA.
 - (2) The Supreme Court may make any of the following enforcement orders if the Court is satisfied that the person has contravened the enforceable undertaking:
 - (a) an order directing the person to comply with the undertaking;

- 5
- (b) an order directing the person to do any specified act or thing for the purpose of complying with the undertaking;
- (c) an order directing the person to do any specified act or thing to minimise any harm or other impact resulting from the contravention of the undertaking;
- 10
- (d) an order that the person pay an amount to the NT EPA for any costs or expenses reasonably incurred by the NT EPA in taking action to minimise any harm or other impact resulting from the contravention of the undertaking, including any investigation, legal or court costs;
- (e) an order that the person pay an amount in compensation to any other person who has suffered loss or damage as a result of the contravention of the undertaking;
- (f) an order revoking the undertaking;
- 15
- (g) any other order the Court considers appropriate in the circumstances.

82D Power of NT EPA to take action

- 20
- (1) If the Supreme Court makes an enforcement order under section 82C(2) and the person in respect of whom it was made contravenes the order, the NT EPA may:
- (a) do any act or thing specified in the order; or
- (b) do anything that is necessary or expedient to be done for the purpose of doing an act or thing specified in the order; or
- (c) publish notice that the person has contravened the order.
- 25
- (2) The NT EPA may recover the reasonable costs and expenses incurred in doing a specified act or thing under subsection (1) from the person in respect of whom the enforcement order was made in a court of competent jurisdiction as a debt due and payable to the Territory.

82E Variation or withdrawal of enforceable undertaking

- 30
- (1) A person who has given an enforceable undertaking to the NT EPA may vary or withdraw the undertaking with the consent of the NT EPA.
- 35
- (2) Despite subsection (1), the provisions of an enforceable undertaking cannot be varied to provide for a different alleged contravention.

(3) An enforceable undertaking is revoked on the withdrawal of the undertaking.

5

(4) The NT EPA must publish on the NT EPA's website, or in any other way determined to be appropriate by the NT EPA, notice of the decision to consent to the variation or withdrawal of an enforceable undertaking and of the reasons for that decision.

82F No criminal proceedings while enforceable undertaking in force

10

(1) Subject to subsection (3), no proceedings for an alleged contravention of this Act may be commenced or continued against a person who has given an enforceable undertaking in relation to the contravention while the undertaking is in force.

15

(2) After accepting an enforceable undertaking from a person in relation to an alleged contravention of this Act, the NT EPA must take reasonable steps to have any prosecution against the person in relation to the contravention stayed as soon as possible.

(3) Proceedings may be instituted or resumed against a person who has given an enforceable undertaking in relation to an alleged contravention of this Act if the undertaking is revoked.

20

82G No further proceedings if enforceable undertaking complied with

If the NT EPA is satisfied that an enforceable undertaking in relation to an alleged contravention of this Act has been complied with:

25

(a) the NT EPA must take reasonable steps to have any prosecution in relation to the contravention discontinued as soon as possible; and

(b) a prosecution for an offence that is constituted by the alleged contravention may not be commenced.

87 Section 88 amended (Regulatory offences)

30

Section 88, after '46B(2),'

insert

46C(2),

88 Section 94 amended (Limitation of proceedings)

Section 94

repeal, insert

94 Limitation on proceedings

5 A complaint for an offence against this Act may be brought within the latest of the following periods to occur:

- (a) within 12 months after the NT EPA first became aware of the commission of the offence;
- 10 (b) if an enforceable undertaking has been given in relation to the offence – within 6 months after the undertaking is revoked.

89 Part 18 inserted

After section 127

insert

15 Part 18 Transitional matters for Environment and Water Legislation Amendment Act 2026

128 Definitions

In this Part:

amending Act means the *Environment and Water Legislation Amendment Act 2026*.

20 ***commencement*** means the commencement of section 69 of the amending Act.

129 Application of amendments to Part 7

- 25 (1) Part 7, as in force immediately before the commencement, continues to apply in relation to a compliance plan that was in effect immediately before the commencement.
- (2) Part 7, as amended by the amending Act, applies only in relation to a compliance plan that is required or approved under that Part after the commencement.

130 Continuation of performance agreements

30 A performance agreement entered into under Part 8 of the Act, as in force immediately before the commencement, that is in effect

immediately before the commencement remains in effect after the commencement as a contract binding on the Territory and the person with whom the agreement was entered into.

131 Enforceable undertakings

5 Part 10, Division 3, as inserted by the amending Act, applies only in relation to a contravention or alleged contravention that occurs after the commencement.

132 Commissioning commenced before commencement

10 Section 30 does not apply to an activity of commissioning, as inserted in Part 1 of Schedule 2 by section 91 of the amending Act, that had commenced before the commencement.

90 Schedule 1 amended (Information to be included on register)

(1) Schedule 1, paragraph (e)

omit

15 14.

insert

14;

(2) Schedule 1, after paragraph (e)

insert

20 (f) enforceable undertakings.

91 Schedule 2 amended (Activities that require approval or licence)

(1) Schedule 2, Part 1, items 1, 2 and 3

omit

25 installing

insert

installing, commissioning

(2) Schedule 2, Part 1, after item 3

insert

4. Carrying out capital dredging prescribed by regulation in a dredging management area.

5 (3) Schedule 2, Part 2, item 2

omit

Collecting, transporting,

insert

Transporting,

10 (4) Schedule 2, Part 2, item 3

omit

collecting,

(5) Schedule 2, Part 2, after item 5

insert

- 15 6. Carrying out maintenance dredging prescribed by regulation in a dredging management area.

92 Act further amended

Schedule 2 has effect.

20 Division 2 Waste Management and Pollution Control (Administration) Regulations 1998

93 Regulations amended

This Division amends the *Waste Management and Pollution Control (Administration) Regulations 1998*.

25 94 Regulation 3 repealed (Period in which application to renew licence to be made)

Regulation 3

repeal

95 Regulation 11 amended (Records)

Regulation 11(1)

omit

collected,

5 **96 Schedule 2 amended (Infringement notice offences)**

Schedule 2, item 1, after '46B(2),'

insert

46C(2),

Part 8 Amendment of Water Act 1992

10 **97 Act amended**

This Part amends the *Water Act 1992*.

98 Section 4 amended (Interpretation)

(1) Section 4(1)

insert

15 ***enforceable undertaking***, see section 105CA(1).

(2) Section 4(3)(d)

omit

environment

insert

20 aquatic ecosystems

99 Section 4B amended (Meaning of *eligible land*)

(1) Section 4B(1)(c)

omit

on or after the expiry

25 *insert*

not less than 10 years from the declaration

(2) Section 4B(1)(c)(i)(A)

omit

2004;

insert

5

2003;

100 Section 22A amended (Beneficial uses within water control district)

Section 22A(2)(a)

omit

10

environment

insert

aquatic ecosystems

101 Section 22B replaced

Section 22B

15

repeal, insert

22B Water allocation plans

(1) Subject to section 22BA, the Minister may, by *Gazette* notice, declare one or more water allocation plans in respect of all or part of a water control district.

20

(2) A water allocation plan remains in force until revoked under section 22BD by the Minister.

(3) A water allocation plan must:

(a) identify each water resource, or part of a water resource, to which the plan applies; and

25

(b) describe the size or scale of each water resource in a manner appropriate to the water resource; and

(c) specify an estimated sustainable yield for:

(i) each water resource to which the plan applies; or

(ii) all water resources to which the plan applies; and

(d) provide information about how water from each water resource to which the plan applies is allocated between the beneficial uses under the plan; and

5

(e) provide matters relating to the management and use of the water resource.

Example for subsection (3)(e)

The management and use of a water resource in a water allocation plan may include the following matters:

10

(a) *establishing a framework for the taking of water from the water resource and managing available water in the water resource;*

(b) *specifying matters to be considered by the Controller when making a water extraction licence decision in relation to the water resource;*

(c) *providing guidelines for the transfer of water entitlements in relation to the water resource.*

15

(4) The water allocation plans for a water control district are to ensure that:

(a) water is allocated to beneficial uses within the estimated sustainable yield; and

20

(b) as far as possible – the full cost of water resources management are to be recovered through administrative charges to licensees and operation contributions from licensees.

25

(5) For subsection (3)(c), a water allocation plan may specify more than one estimated sustainable yield in relation to each water resource or all water resources being managed under the plan.

Examples for subsection (5)

30

1 *An estimated sustainable yield for a water resource may be specified for August and a different estimated sustainable yield for the water resource may be specified for December.*

2 *An estimated sustainable yield may be specified for surface water and a different estimated sustainable yield may be specified for ground water.*

(6) An allocation under subsection (4)(a) is to include an Aboriginal water reserve if any of the land in the water control district to which the water allocation plan relates is eligible land.

35

(7) In this section:

estimated sustainable yield, in relation to a water resource, means the amount of water from the water resource that, having regard to the environment, may be allocated to beneficial uses and taken by persons.

22BA Draft water allocation plans

- (1) Before declaring a water allocation plan under section 22B(1), the Minister must give notice of the draft water allocation plan.
- (2) The notice must:
 - (a) state that the draft plan has been prepared; and
 - (b) state where a copy of the draft plan may be inspected; and
 - (c) invite interested persons to make written submissions about the draft plan on or before the specified date, which must be at least 20 business days after the date on which the notice is published; and
 - (d) state where submissions about the draft plan may be lodged.
- (3) The Minister may determine the manner in which the notice under subsection (1) is to be published.
- (4) The Minister must consider any submissions about the draft plan that are lodged on or before the date specified in the notice.
- (5) After considering the submissions mentioned in subsection (4), the Minister may:
 - (a) make any changes to the draft plan that the Minister considers appropriate and declare the plan under section 22B(1) with those changes; or
 - (b) declare the draft plan under section 22B(1) without making any changes.

22BB Review of water allocation plans

The Minister must ensure that a review of a water allocation plan is conducted at intervals not longer than 5 years.

22BC Amendment of water allocation plans

- (1) The Minister may amend a water allocation plan following a review of the plan under section 22BB.
- (2) The process in section 22BA applies in relation to the amendment of the plan.
- (3) Despite subsections (1) and (2), the Minister may, at any time, make an administrative amendment to a water allocation plan.

22BD Revocation of water allocation plans

The Minister may, by *Gazette* notice, revoke the declaration of a water allocation plan at any time.

102 Section 23 replaced

5 Section 23

repeal, insert

23 Water Advisory Committees

(1) The Minister may, in writing, establish a Water Advisory Committee for the Territory, or a part of the Territory, for a particular purpose.

10 (2) An Advisory Committee consists of the persons appointed by the Minister.

(3) A person appointed under subsection (2) holds office at the Minister's pleasure.

15 (4) An Advisory Committee must consider and advise the Minister on the matters referred to it by the Minister from time to time.

103 Section 24 amended (Authorised officers)

After section 24(4)

insert

20 (5) If a public sector employee is appointed under subsection (1), the appointment ceases to have effect when the person ceases to be a public sector employee.

104 Section 71AA amended (Transfer of entitlements to water)

(1) Section 71AA(2)

omit, insert

25 (2) The application must:

(a) be in a form approved by the Controller; and

(b) specify a period for the effect of the transfer of entitlements.

(2) After section 71AA(3)

insert

5 (3A) If the water subject to the application is in relation to an Aboriginal water reserve, the Controller must not approve the transfer of water entitlement unless the Controller is satisfied that:

(a) the transfer is for a period that is less than the remaining term of the seller's licence period; and

(b) the seller:

10 (i) is an eligible Aboriginal person for the eligible land in respect of which the Aboriginal water reserve applies; or

(ii) has obtained the agreement of the eligible Aboriginal people for the eligible land in respect of which the Aboriginal water reserve applies to the application; and

(c) the buyer:

15 (i) is an eligible Aboriginal person for the eligible land in respect of which the Aboriginal water reserve applies; or

(ii) has obtained the agreement of the eligible Aboriginal people for the eligible land in respect of which the Aboriginal water reserve applies to the application.

20 (3B) The Controller may terminate an application if the Controller is not satisfied of a matter mentioned in subsection (3A).

(3) After section 71AA(4)

insert

25 (5) If the Controller approves a transfer for a period that is less than the remaining term of the seller's licence period, the water entitlement that is the subject of the transfer is transferred back to the seller on the expiry of that period.

105 Section 71AB amended (Amendment of licences if transfer approved)

Section 71AB(1)

omit, insert

5 (1) If the Controller approves an application made under section 71AA(1), the Controller must amend the licences to provide that for the period of the transfer:

(a) the seller's entitlement to water is reduced; and

10 (b) the buyer's entitlement to water is increased by no more than the reduction in the seller's entitlement under paragraph (a).

106 Section 71BAA inserted

After section 71BA

insert

71BAA Requirement to give information or document

15 (1) The Controller may, by written notice, direct the applicant to give the Controller any additional information or document the Controller considers reasonably necessary to make a water extraction licence decision for the application.

(2) A direction under subsection (1):

20 (a) may be given at any time during the assessment of the application; and

(b) must specify the period within which the information or document is to be provided.

25 (3) If the Controller gives a direction under subsection (1), the time period mentioned in sections 71B and 71C is suspended until the specified period in the direction expires.

71BAB Termination of application

(1) The Controller may, by written notice to the applicant, terminate an application if:

30 (a) the Controller has directed the applicant to give the Controller additional information or a document under section 71BAA(1) and the applicant has failed to give the information or document within the period specified in the direction; or

-
- 5
- (b) the applicant has failed to pay a fee charged in relation to the application; or
 - (c) if the application relates to an Aboriginal water reserve – the applicant has not provided the information or document required to meet the criteria mentioned in section 71BA; or
 - (d) the applicant advises the Controller that the applicant wants to withdraw the application; or
 - (e) another circumstance prescribed by regulation applies.
- 10
- (2) Subject to subsection (7), the Controller must not terminate an application under subsection (1) unless the Controller has given written notice (a **show cause notice**) to the applicant:
- (a) stating the Controller's intention to terminate the application; and
 - 15 (b) inviting the applicant to submit a response as to why the application should not be terminated.
- (3) The show cause notice must specify a reasonable period within which the applicant may show cause by.
- (4) If the Controller gives a show cause notice to an applicant, the period mentioned in sections 71B and 71C is suspended until the specified period in the show cause notice expires.
- 20
- (5) The Controller must consider any response given by the applicant to the show cause notice before deciding to terminate an application under subsection (1).
- (6) The notice under subsection (1) must specify that the applicant may apply to NTCAT for a review of the decision to terminate the application.
- 25
- (7) Subsections (2) to (6) do not apply to an applicant mentioned in subsection (1)(d).
- (8) If the Controller terminates an application under subsection (1):
- 30
- (a) the Controller is not required to comply with section 71B or 71C in relation to the application; and
 - (b) if the Controller has given notice under section 71B(1) in relation to the application, the Controller may, if the Controller considers it reasonable in the circumstance, publish a notice in the same manner as the notice under section 71B(1) stating that the application has been terminated.
- 35

- (9) To avoid doubt, the termination of an application under subsection (1) is not a decision to refuse to grant a water extraction licence or a decision to refuse an amendment or modification of a water extraction licence.

5 **107 Section 71M amended (Licence to take water for exempt activity)**

After section 71M(3)

insert

- 10 (3A) The Controller may terminate an application in accordance with the procedure prescribed by regulation.

108 Section 105 amended (Proceedings for offences)

Section 105(1)

omit, insert

- 15 (1) A proceeding for an offence against this Act must be commenced within the latest of the following periods to occur:

(a) within 12 months after the later of:

(i) the date on which the offence was committed; or

(ii) the date on which evidence of the offence first came to the attention of the Controller or an authorised officer;

- 20 (b) if an enforceable undertaking has been given in relation to the offence – within 6 months after the undertaking is revoked.

109 Part 10, Division 6 inserted

After section 105C

insert

25 **Division 6 Enforceable undertakings**

105CA Enforceable undertakings

- (1) An ***enforceable undertaking*** is an enforceable promise given under this Division by a person in relation to an alleged contravention of this Act.

(2) An enforceable undertaking may contain any of the following:

- (a) any terms and conditions that the Controller considers necessary to ensure compliance with this Act;
- (b) a requirement that the person who gives the undertaking carries out specified remediation work to rectify damage resulting from an action that is allegedly in contravention of this Act;
- (c) a requirement that the person who gives the undertaking publishes notice of the alleged contravention and any act or thing done, or to be done, by the person;
- (d) a requirement to do any other specified act or thing approved by the Controller.

(3) An enforceable undertaking must include time limits for the performance of any obligations and a method to monitor compliance with the undertaking.

(4) The process of negotiating an enforceable undertaking is without prejudice to any party's position.

105CB Controller may accept enforceable undertaking

(1) The Controller may accept an enforceable undertaking given by a person in connection with an alleged contravention of this Act.

(2) The Controller must consider the following before accepting the enforceable undertaking:

- (a) the nature and gravity of the conduct constituting the alleged contravention;
- (b) if applicable – the maximum penalty provided for the alleged contravention;
- (c) the benefits of the proposed undertaking and the public interest;
- (d) any other factor that the Controller considers relevant.

(3) The enforceable undertaking must be in writing, signed by the Controller and the person who gives the undertaking and dated.

(4) The Controller must publish on the Agency's website, or in any other way determined to be appropriate by the Controller, notice of the decision to accept the enforceable undertaking and of the reasons for that decision.

- (5) The giving of the enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the alleged contravention.

105CC Enforcement orders

- 5 (1) The Controller may apply to the Supreme Court for an order under subsection (2) if the Controller considers that a person has contravened an enforceable undertaking accepted by the Controller.

- 10 (2) The Supreme Court may make any of the following enforcement orders if the Court is satisfied that the person has contravened the enforceable undertaking:

- (a) an order directing the person to comply with the undertaking;
- (b) an order directing the person to do any specified act or thing for the purpose of complying with the undertaking;
- 15 (c) an order directing the person to do any specified act or thing to minimise any harm or other impact resulting from the contravention of the undertaking;
- (d) an order that the person pay an amount to the Agency for any costs or expenses reasonably incurred by the Controller in taking action to minimise any harm or other impact resulting from the contravention of the undertaking, including any investigation, legal or court costs;
- 20 (e) an order that the person pay an amount in compensation to any other person who has suffered loss or damage as a result of the contravention of the undertaking;
- 25 (f) an order revoking the undertaking;
- (g) any other order the Court considers appropriate in the circumstances.

105CD Power of Controller to take action

- 30 (1) If the Supreme Court makes an enforcement order under section 105CC(2) and the person in respect of whom it was made contravenes the order, the Controller may:
- (a) do any act or thing specified in the order; or
- 35 (b) do anything that is necessary or expedient to be done for the purpose of doing an act or thing specified in the order; or

(c) publish notice that the person has contravened the order.

- 5 (2) The Controller may recover the reasonable costs and expenses incurred in doing a specified act or thing under subsection (1) from the person in respect of whom the enforcement order was made in a court of competent jurisdiction as a debt due and payable to the Territory.

105CE Variation or withdrawal of enforceable undertaking

- 10 (1) A person who has given an enforceable undertaking to the Controller may vary or withdraw the undertaking with the consent of the Controller.

- (2) Despite subsection (1), the provisions of an enforceable undertaking cannot be varied to provide for a different alleged contravention.

- 15 (3) An enforceable undertaking is revoked on the withdrawal of the undertaking.

- (4) The Controller must publish on the Agency's website, or in any other way determined to be appropriate by the Controller, notice of the decision to consent to the variation or withdrawal of an enforceable undertaking and of the reasons for that decision.

20 **105CF No criminal proceedings while enforceable undertaking in force**

- 25 (1) Subject to subsection (3), no proceedings for an alleged contravention of this Act may be commenced or continued against a person who has given an enforceable undertaking in relation to the contravention while the undertaking is in force.

- (2) After accepting an enforceable undertaking from a person in relation to an alleged contravention of this Act, the Controller must take reasonable steps to have any prosecution against the person in relation to the contravention stayed as soon as possible.

- 30 (3) Proceedings may be instituted or resumed against a person who has given an enforceable undertaking in relation to an alleged contravention of this Act if the undertaking is revoked.

105CG No further proceedings if enforceable undertaking complied with

If the Controller is satisfied that an enforceable undertaking in relation to an alleged contravention of this Act has been complied with:

- (a) the Controller must take reasonable steps to have any prosecution in relation to the contravention discontinued as soon as possible; and
- (b) a prosecution for an offence that is constituted by the alleged contravention may not be commenced.

110 Part 22 inserted

After section 133

insert

Part 22 Transitional matters for Environment and Water Legislation Amendment Act 2026**134 Definitions**

In this Part:

amending Act means the *Environment and Water Legislation Amendment Act 2026*.

commencement means the commencement of section 97 of the amending Act.

135 Reference to beneficial use of environment taken to be reference to aquatic ecosystems

A reference to the beneficial use of environment in a declaration, licence or other document in force immediately before the commencement, has effect after the commencement as if it were a reference to the beneficial use of aquatic ecosystems under section 4 as amended by the amending Act.

136 Continuation of existing water allocation plans

A water allocation plan that was in force immediately before the commencement:

- 5 (a) continues in force after the commencement as if it had been declared under section 22B, as inserted by the amending Act; and
- (b) may be amended or revoked under section 22BC or 22BD after the commencement.

137 Continuation of existing Advisory Committees

10 An Advisory Committee established under section 23, as in force immediately before the commencement, that is in existence immediately before the commencement, continues in existence after the commencement as if it had been established under section 23, as inserted by the amending Act.

15 138 Existing transfer of entitlements to water application

Sections 71AA and 71AB, as amended by the amending Act, apply in relation to an application made under section 71AA(1) that was lodged with the Controller but not decided before the commencement.

20 139 Existing water extraction licence application

- (1) Sections 71BAA and 71BAB, as inserted by the amending Act, apply in relation to an application for the grant, amendment or modification of a water extraction licence that is lodged with the Controller after the commencement.
- 25 (2) Part 6A, as in force immediately before the commencement, continues to apply to an application for the grant, amendment or modification of a water extraction licence that was lodged with the Controller but not decided before the commencement.

111 Schedule 2 amended (Reviewable decisions)

- 30 (1) Schedule 2, after item 21

insert

21A A decision of the Controller under section 71BAB(1) to terminate an application except in the circumstance mentioned in section 71BAB(1)(d)

The person who applied for the licence

(2) Schedule 2, after item 24

insert

25	A decision of the Controller under section 71M(3A) to terminate an application	The person who applied for the licence
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Part 9 Repeal of Act

112 Repeal of Act

5 This Act is repealed on the day after it commences.

Schedule 1 Environment Protection Act 2019 further amended

section 34

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 124ZJ(3)	amended the standard	replaced under section 124W, the standard
section 124ZJ(3)	amended standard	replaced standard
section 124ZQ, heading	amended	replaced
section 124ZQ(1)(b)	amended	replaced under section 124W
section 124ZQ(1)(c) and (4)	amended	replaced
section 124ZT(b)	amended	replaced under section 124W
section 124ZT(c)	amended	replaced
section 124ZV	amended standard conditions of	replaced standard conditions applying to
section 124ZW	amendments to the standard conditions commence.	replaced standard conditions commence.
section 124ZY(b)	amended	replaced

Schedule 2 Waste Management and Pollution Control Act 1998 further amended

section 92

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 32(1)(c)	plan or performance agreement;	plan; and
section 32(1)(a), (b), (d) and (e), at the end		and
section 72(1)(h)	plan, improvement plan or performance agreement,	plan or improvement plan,