

# Information sheet

## *Environmental Protection and Other Legislation Amendment Act 2023 (EPOLA Act)*

### **EPOLA Act environmental impact statement (EIS) changes**

*EPOLA Act amendments to the EIS process under the Environmental Protection Act 1994 (EP Act)*

## 1 Introduction

This information sheet summarises changes to the environmental impact statement (EIS) assessment process due to *Environmental Protection and Other Legislation Amendment Act 2023 Act* (EPOLA Act) amendments to the Environmental Protection Act 1994 (EP Act). The EPOLA Act commenced on 5 April 2023.

## 2 What are the changes to the EIS process?

Key changes to the EP Act EIS provisions are:

- Enabling the chief executive to **refuse to allow a draft terms of reference (TOR) or a submitted EIS from proceeding** if it is unlikely the project could proceed under a State or Commonwealth law.
- Providing that **EIS assessment reports lapse after three years** (with the option for extension).
- **Replacing the Ministerial review provisions in the EIS process with internal review and court appeal** processes.

Other changes:

- The chief executive may decide that an EIS can proceed to public notification 'with changes' allowing the proponent to address requested changes in an amended EIS (within set timeframes).
- When submitting a draft TOR, proponents must provide a summary of the potential adverse environmental impacts of the project, and the measures proposed to avoid or minimise the adverse impacts.
- The proponent must make the submitted EIS (all versions) available on a website for 2 years (previously 1 year).
- The chief executive must make more EIS assessment related documents available on a public register. This includes written summaries of submissions given to the chief executive about submitted EIS; proponents' responses to submissions made on the EIS; and EIS amendment notices.
- EIS notices can be published on a webpage only and do not have to be published in a newspaper (significant cost savings for proponents). The exception is for projects being assessed under the [bilateral agreement](#) between Queensland and Australia governments, where the EIS notice must still be published in a newspaper circulating throughout Australia; or in each State or Territory.



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### 3 Will the changes apply to my EIS project currently in progress?

If you have already submitted a draft TOR for the project prior to commencement of the EPOLA Act (i.e., 5 April 2023), the following provisions will not apply:

- enabling the chief executive to refuse to allow a draft TOR for an EIS to proceed (new EP Act sections 41A and 41B) or to refuse an EIS from proceeding if it is unlikely the project could proceed under a State or Commonwealth law (i.e., new EP Act sections 49, 49A, 56A and 56AA)
- lapsing of the EIS assessment report after 3 years (new section 59A).

All other provisions apply.

### 4 What are the new ‘unacceptable criteria’?

The new criteria introduced with the EPOLA Act state the chief executive must refuse to allow the draft TOR or submitted EIS to proceed if, having regard to the draft TOR or submitted EIS—

- (a) the chief executive is satisfied it is unlikely the project could proceed under this Act or another law, including, for example, because the project—
  - (i) would contravene a law of the Commonwealth or the State; or
  - (ii) would give rise to an unacceptable risk of serious or material environmental harm; or
  - (iii) would have an unacceptable adverse impact on a matter of State environmental significance or a matter of national environmental significance; or
  - (iv) would have an unacceptable adverse impact on an area of cultural heritage significance; or
- (b) the chief executive is required to refuse to allow the submitted EIS to proceed under a regulatory requirement.

### 5 As a proponent (or consultant), what do I need to do differently now?

- If submitting a voluntary EIS, EIS decision application or a draft TOR, provide a summary of the potential adverse environmental impacts of the project, and the measures proposed to avoid or minimise the adverse impacts.
- Make the submitted EIS (all versions) available on a website for 2 years after the EIS Assessment Report is finalised (previously 1 year).

### 6 How do I stop the EIS Assessment Report from lapsing?

To prevent the EIS Assessment Report from lapsing, submit an EA application within 3 years of the EIS Assessment Report being finalised. If the EA application process is not commenced prior to the lapse date, the EIS will become redundant, and you may need to undertake a new EIS process.

### 7 Can I still ask for an EIS decision to be reviewed?

The Ministerial review provisions in the EIS process were replaced with the internal review and court appeal processes. This is consistent with how other original decisions can be appealed under the EP Act as outlined in the department's [Information sheet— Internal review and appeals](#) (ESR/2015/1742).

### 8 More information

For further information on this or to discuss how these changes may impact your project, please contact Environmental Impact Assessment team by emailing [eis@des.qld.gov.au](mailto:eis@des.qld.gov.au).

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### **Approved:**

5 April 2023

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