

Queensland



**ENVIRONMENTAL
PROTECTION LEGISLATION
AMENDMENT ACT (No. 2) 2001**

Act No. 86 of 2001

Queensland



**ENVIRONMENTAL PROTECTION
LEGISLATION AMENDMENT ACT (No. 2)
2001**

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*Environmental Protection Legislation Amendment Act No. 86, 2001
(No. 2) 2001*

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Queensland



**Environmental Protection Legislation
Amendment Act (No. 2) 2001**

Act No. 86 of 2001

**An Act to amend the *Environmental Protection Act 1994*, and for other
purposes**

[Assented to 3 December 2001]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Environmental Protection Legislation Amendment Act (No. 2) 2001*.

PART 2—AMENDMENT OF ENVIRONMENTAL PROTECTION ACT 1994

2 Act amended in pt 2

This part amends the *Environmental Protection Act 1994*.

3 Amendment of s 13 (Waste)

(1) Section 13(1), after ‘any thing’—

insert—

‘, other than a resource approved under subsection (4),’.

(2) Section 13—

insert—

‘(4) The administering authority may approve a resource, or a stated type of resource, for subsection (1) if it considers the resource, or type of resource, has a beneficial use other than disposal.

Examples of ‘beneficial use’ for subsection (4)—

Re-using or recycling a resource.’.

4 Replacement of ch 3, pt 1, div 1, sdiv 3, hdg (Purposes of EIS)

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

omit, insert—

‘Subdivision 3—Purposes of EIS and EIS process’.

5 Amendment of s 40 (Purposes)

Section 40, after ‘purposes of an EIS’—

insert—

‘and the EIS process’.

6 Amendment of s 41 (Submission)

Section 41(3)(b)—

insert—

‘Examples of persons who may be proposed as an ‘interested person’—

An unincorporated community or environmental body with a financial or non-financial interest in the local government area that the operational land is in.’.

7 Replacement of s 369 (Waste removal etc. by private contractors)

Section 369—

omit, insert—

‘369 Restrictions on performing waste management works

‘(1) A person must not, for fee or reward, perform waste management works in a local government’s area unless the works—

(a) are performed—

(i) by or for the local government; or

(ii) under an approval, under section 369A, from the local government to perform the works; or

(iii) under a development approval; or

(b) are an environmentally relevant activity.

Maximum penalty—100 penalty units.

‘(2) However, subsection (1)(b) does not apply if the activity is waste transport.

‘369A Obtaining approval to perform waste management works

‘(1) A person may apply to a local government for approval to perform waste management works in its area.

‘(2) The application must be in the approved form and accompanied by any fee required by the local government to consider the application.

‘(3) However, the local government can not require a fee that is more than the lesser of—

- (a) the reasonable cost of considering the application; or
- (b) the maximum fee prescribed under a regulation.

‘(4) The local government must, as soon as practicable after the application is made, decide whether to grant or refuse the approval.

‘(5) If the local government does not decide the application within 60 days after receiving it, the approval is taken to have been refused.

‘(6) The local government may impose relevant conditions on the approval it considers are necessary or desirable.

‘(7) If the local government decides to grant the approval, it must give the applicant the approval in writing within 10 business days after making the decision.

‘(8) The local government must, within 10 business days after making a decision as follows, give the applicant an information notice about the decision—

- (a) a decision to refuse the approval;
- (b) a decision to impose a condition on the approval, other than a condition that is the same, or to the same effect, as a condition agreed to or requested by the applicant.

‘(9) An information notice under subsection 8(b) may accompany, or be included in, the approval.

‘369B Amendment or cancellation of approval

‘(1) A local government may, at any time, amend an approval under section 369A, by giving the approval holder written notice of the amendment, if the amendment—

- (a) is to correct a clerical or formal error; or
- (b) does not adversely affect the holder’s interests; or
- (c) is at the holder’s written request.

‘(2) A local government may, by complying with subsections (4) to (7), otherwise amend, or cancel, an approval under section 369A.

‘(3) However, the approval may be cancelled only on the ground that a condition imposed on the approval has not been complied with.

‘(4) The local government must give the approval holder written notice stating each of the following—

- (a) the action the local government proposes to take, and, if it is an amendment, the proposed amendment;
- (b) the grounds for the action;
- (c) the facts and circumstances that form the basis for the grounds;
- (d) that the holder may make, within a stated period (the “**show cause period**”), written representations to show why the action should not be taken.

‘(5) The show cause period must end at least 28 days after the holder is given the notice.

‘(6) The local government must consider any representations made within the show cause period.

‘(7) If the local government decides to take the action, it must, within 10 business days after making the decision, give the approval holder, or former approval holder, an information notice about the decision.

‘(8) The decision takes effect when the notice is given.

‘(9) In this section—

“**amend**”, an approval, includes—

- (a) amending a condition imposed on the approval; and
- (b) imposing a new condition on the approval.’.

8 Amendment of s 520 (Dissatisfied person)

(1) Section 520(1)(h), ‘section 369’—

omit, insert—

‘section 369A’.

(2) Section 520(1)—

insert—

‘(r) if the decision is about an approval, or an application for an approval, under section 13(4)—the applicant for, or holder of, the approval.’.

9 Amendment of s 558 (Publication of decision or document by administering authority)

(1) Section 558—

insert—

‘(2A) However, if a regulation requires the decision or document to be published in another way, it must be published in that way.’.

(2) Section 558(2A) to (4)—

renumber as section 558(3) to (5).

10 Amendment of s 580 (Regulation-making power)

Section 580(2)—

insert—

‘(t) approvals under section 13(4), including, for example, the following—

- (i) procedures for a person to apply for an approval;
- (ii) matters that must be considered in deciding the application;
- (iii) conditions that may be imposed on an approval;
- (iv) the amendment, cancellation or suspension of an approval.’.

11 Amendment of sch 1 (Original decisions)

(1) Schedule 1, part 2, division 1—

insert—

‘13(4) Refusal to grant an application for an approval

13(4) Imposition of condition on an approval’.

(2) Schedule 1, part 2, division 3, entries for ‘369(3)’, ‘369(5) and (6)’ and ‘369(6)’—

omit, insert—

‘369A(4) or (5) Refusal to grant an application for an approval

369A(6) Imposition of condition on an approval

369B(2) Decision to amend or cancel an approval’.

12 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definition, “**standard criteria**” from ‘, for an’ to ‘permit,’—

omit.

(2) Schedule 3, definition “**standard criteria**”, paragraphs (g) and (h)—

omit, insert—

‘(g) the best practice environmental management for activities under any relevant instrument, or proposed instrument, as follows—

- (i) an environmental authority;
- (ii) an environmental management program;
- (iii) an environmental protection order;
- (iv) a disposal permit; and

‘(h) the financial implications of the requirements under an instrument, or proposed instrument, mentioned in paragraph (g) as they would relate to the type of activity or industry carried out, or proposed to be carried out, under the instrument; and’.

(3) Schedule 3, definition “**standard criteria**”, paragraph (k)—

omit, insert—

‘(k) any relevant integrated environmental management system or proposed integrated environmental management system; and’.

PART 3—AMENDMENT OF ENVIRONMENTAL AND OTHER LEGISLATION AMENDMENT ACT 1997

13 Act amended in pt 3

This part amends the *Environmental and Other Legislation Amendment Act 1997*.

14 Amendment of s 2 (Commencement)

(1) Section 2(1), ‘, other than section 20,’—

omit.

(2) Section 2(2)—

omit.

15 Omission of s 20 (Amendment of s 369 of Act No. 80 of 1997)

Section 20—

omit.