



Queensland

# **Environmental Protection and Other Legislation Amendment Act 2014**

**Act No. 59 of 2014**





## Queensland

# Environmental Protection and Other Legislation Amendment Act 2014

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Queensland

## **Environmental Protection and Other Legislation Amendment Act 2014**

**Act No. 59 of 2014**

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**An Act to amend the Biological Control Act 1987, the Coastal Protection and Management Act 1995, the Environmental Offsets Act 2014, the Environmental Protection Act 1994, the Nature Conservation Act 1992, the Sustainable Planning Act 2009, the Waste Reduction and Recycling Act 2011 and the Wet Tropics World Heritage Protection and Management Act 1993 for particular purposes, and to make minor and consequential amendments of the Acts mentioned in schedule 1**

**[Assented to 7 November 2014]**

[s 1]

---

## The Parliament of Queensland enacts—

# Part 1 Preliminary

## 1 Short title

This Act may be cited as the *Environmental Protection and Other Legislation Amendment Act 2014*.

## 2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (aa) part 4, other than the following provisions—
  - (i) section 9A;
  - (ii) section 15A;
  - (iii) section 16(2), to the extent it inserts the definitions *administering agency*, *impose* and *Planning Act*;
  - (iv) section 16(3);
- (ab) the following provisions of part 5—
  - (i) section 62(1);
  - (ii) section 63;
  - (iii) section 99;
  - (iv) section 100;
  - (v) section 102;
  - (vi) section 103(5);
  - (vii) section 104;
- (a) part 5, division 3;
- (b) part 6;

- (ba) part 6A;
- (c) part 7, division 3;
- (d) schedule 1, to the extent it amends the following—
  - (i) the *Environmental Protection Act 1994*;
  - (ii) the *Vegetation Management Act 1999*.

## Part 2                      Amendment of Biological Control Act 1987

### 3            Act amended

This part amends the *Biological Control Act 1987*.

*Note—*

See also amendments in schedule 1.

### 4            Amendment of s 3 (Definitions)

Section 3, definition *Council*—

*omit, insert—*

***Council*** means—

- (a) the standing ministerial council established or recognised by the Council of Australian Governments of which its members include Commonwealth and State ministers with portfolio responsibility for primary industries; or
- (b) if another body is prescribed by regulation—the prescribed body.

[s 5]

---

**5 Amendment of s 8 (Queensland Biological Control Authority)**

Section 8(2)—

*omit, insert—*

- (2) The Authority is—
- (a) if only 1 Minister is a member of the Council—that Minister; or
  - (b) if 2 or more Ministers are members of the Council—those Ministers acting jointly; or
  - (c) if paragraphs (a) and (b) do not apply—the Minister administering this Act.

**6 Insertion of new pt 9**

After part 8—

*insert—*

**Part 9 Validation provision**

**57 Validation provision relating to changes to name of Council**

- (1) For the period starting on 21 May 2001 and ending on 16 September 2011, the Primary Industries Ministerial Council is taken to have been the Council for the purposes of this Act.
- (2) For the period starting on 17 September 2011 and ending on 13 December 2013, the Standing Council on Primary Industries is taken to have been the Council for the purposes of this Act.
- (3) A recommendation or decision purportedly made under this Act, or an approval purportedly given under this Act, by an entity mentioned in subsection (1) or (2) during the period mentioned in the subsection that would have been valid and lawful if done by the Agriculture and Resource

Management Council of Australia and New Zealand is taken to have been validly made or given for the purposes of this Act.

## **Part 3**                      **Amendment of Coastal Protection and Management Act 1995**

### **7 Act amended**

This part amends the *Coastal Protection and Management Act 1995*.

### **8 Amendment of s 133 (Protection from liability)**

(1) Section 133—

*insert—*

(2A) This section does not apply to an official if the official is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

(2) Section 133(2A) and (3)—

*renumber* as section 133(3) and (4).

## **Part 4**                      **Amendment of Environmental Offsets Act 2014**

### **9 Act amended**

This part amends the *Environmental Offsets Act 2014*.

[s 9A]

---

**9A Amendment of s 5 (Relationship with particular Acts)**

Section 5(3), note, fourth dot point, ‘section 972’—

*omit, insert—*

section 346B

**10 Insertion of new s 13A**

Part 5—

*insert—*

**13A Definition for pt 5**

In this part—

*existing* means—

- (a) for a State condition—an offset condition that has been imposed; or
- (b) for a Commonwealth condition—a condition that has been imposed under a relevant Commonwealth Act.

**10A Amendment of s 13 (Content of environmental offsets policy)**

Section 13(e), ‘calculating’—

*omit, insert—*

determining

**10B Insertion of new s 13B**

Part 5—

*insert—*

**13B What this part is about**

- (1) This part applies if an administering agency may impose an offset condition on an authority, under



---

another Act, for an impact on a prescribed environmental matter.

- (2) This part applies despite anything to the contrary in the other Act, other than as mentioned in—
- (a) section 5; or
  - (b) the Planning Act, section 325(1).

## **11 Replacement of s 14 (Imposing offset condition)**

Section 14—

*omit, insert—*

### **14 Imposing offset condition**

- (1) The administering agency may impose the offset condition only if satisfied—
- (a) the prescribed activity will, or is likely to, have a significant residual impact on a prescribed environmental matter; and
  - (b) all reasonable on-site mitigation measures for the prescribed activity have been, or will be, undertaken.
- (2) When making a decision under the other Act about whether to impose an offset condition, the administering agency must consider any offset condition that has been imposed on an authority under another Act for—
- (a) the same, or substantially the same, impact; and
  - (b) the same, or substantially the same, prescribed environmental matter.

## **12 Replacement of s 15 (Restriction on imposition of offset condition)**

Section 15—

[s 12]

---

*omit, insert—*

### **15 Restriction on imposition of offset condition**

- (1) An administering agency may impose an offset condition on an authority only if—
  - (a) the same, or substantially the same, impact has not been assessed under a relevant Commonwealth Act; and
  - (b) the same, or substantially the same, prescribed environmental matter has not been assessed under a relevant Commonwealth Act.
- (2) Subsection (1) applies whether or not the assessment resulted in the imposition of an offset condition.
- (3) However, subsection (1) does not apply if the prescribed environmental matter to which the condition relates is a protected area.
- (4) An administering agency that is a local government may impose an offset condition on an authority only for the following—
  - (a) a matter of local environmental significance;
  - (b) another prescribed environmental matter that is further prescribed by regulation as relevant for this subsection.
- (5) In this section—

***relevant Commonwealth Act*** means—

  - (a) the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth) as a controlled action; or
  - (b) the *Great Barrier Reef Marine Park Act 1975* (Cwlth); or
  - (c) another Commonwealth Act prescribed by regulation.

---

**13 Amendment of pt 6 hdg (Requirements about offset conditions)**

Part 6, heading, ‘offset conditions’—

*omit, insert—*

**environmental offsets**

**13A Amendment of s 16 (Conditions that apply under this Act to authority)**

Section 16(1) to (3)—

*omit, insert—*

- (1) This section applies if an offset condition is imposed on an authority, under another Act, for a significant residual impact of a prescribed activity on a prescribed environmental matter.
- (2) Sections 19B, 22, 24 and 25 state further conditions that, under this Act, are imposed on the authority.
- (3) A further condition mentioned in subsection (2) is a *deemed condition* of the authority.

**13B Replacement of ss 18 and 19**

Sections 18 and 19—

*omit, insert—*

**18 Electing how to deliver environmental offset**

- (1) This section applies if an administering agency may impose or has imposed on an authority, under another Act, an offset condition for the significant residual impact of a prescribed activity on a prescribed environmental matter.
- (2) An entity may, by notice in the approved form given to the administering agency, elect to deliver an environmental offset for the prescribed

[s 13B]

---

- activity, or for a stage of the prescribed activity, by—
- (a) a proponent-driven offset; or
  - (b) a financial settlement offset; or
  - (c) a combination of a proponent-driven offset and a financial settlement offset.
- (3) A notice of election that involves a proponent-driven offset must be accompanied by a plan (an *offset delivery plan*) about how the entity will undertake the offset.
- (4) The offset delivery plan must—
- (a) describe how an environmental offset will be undertaken and the conservation outcome will be achieved; and
  - (b) state that the entity, and any other entity that owns land on which the environmental offset will be undertaken, agree to the offset being undertaken; and
  - (c) be signed by the entities mentioned in paragraph (b); and
  - (d) satisfy each other requirement prescribed by regulation for this section.
- (5) For subsection (4)(a), the offset delivery plan must—
- (a) effectively account for and manage the risks of the environmental offset failing to achieve the conservation outcome; and
  - (b) ensure the environmental offset provides benefits in relation to the prescribed environmental matter in addition to any other benefit provided under a requirement of, or of an authority under, an Act; and

*Example for paragraph (b)—*

Ensuring an environmental offset in relation to the management of a pest provides benefits in addition to a landowner's obligation under the *Land Protection (Pest and Stock Route Management) Act 2002*, section 77 to take reasonable steps to keep land free of particular pests.

- (c) have transparent governance arrangements that can be readily measured, monitored, audited and enforced; and
- (d) ensure the environmental offset is of a size and scale proportionate to the significant residual impact on the prescribed environmental matter.

## **19 Agreed delivery arrangements**

- (1) After receiving a notice of election, the administering agency must consider the election and any offset delivery plan, including by considering—
  - (a) each relevant environmental offsets policy; and
  - (b) any other matter prescribed by regulation for this section.
- (2) The administering agency must decide whether it is appropriate to deliver the environmental offset in the way stated in the notice of election, and any offset delivery plan, or whether the offset should be delivered in a different way.
- (3) The administering agency must give the entity a notice that states—
  - (a) the way in which the environmental offset is required to be delivered; and

[s 13B]

---

- (b) the entity is required to enter into an agreed delivery arrangement within a stated reasonable period; and
  - (c) that the entity may apply for a review of the decision; and
  - (d) how and when the entity may apply for a review of the decision.
- (4) An ***agreed delivery arrangement*** is an agreement between an entity and the administering agency about the entity's delivery of an environmental offset, with reference to any offset delivery plan.
- (5) An agreed delivery arrangement may be entered into before or after the authority is granted.

*Note—*

However, see section 19A for when an agreed delivery arrangement is entered into before the authority is granted.

- (6) If the administering agency fails to give notice under subsection (3) within 40 business days after receiving the notice of election, the entity may apply for a review of the failure to give the notice, in the way provided for under subsection (8).
- (7) The entity and administering agency may amend either or both of the following—
- (a) the agreed delivery arrangement;
  - (b) an offset delivery plan;
- by entering into another agreed delivery arrangement before the entity starts the relevant prescribed activity, or the relevant stage of a prescribed activity.
- (8) A regulation may provide for—
- (a) a review of a decision to require an environmental offset to be delivered in a

- 
- way that differs from the way stated in a notice of election; or
- (b) a review of a failure to give a notice under subsection (3) within 40 business days after the administering agency receives the notice of election; or
  - (c) what happens if the entity and administering agency do not enter into an agreed delivery arrangement within the stated reasonable period; or
  - (d) a dispute resolution process.

### **13C Insertion of new s 19A**

Part 6, division 2—

*insert—*

#### **19A Agreed delivery arrangement before authority granted**

- (1) This section applies if an entity enters into an agreed delivery arrangement (the *early arrangement*) under section 19 before an authority is granted.
- (2) The entity—
  - (a) may start to deliver a proponent-driven offset before the authority is granted; but
  - (b) must not pay any amount under a financial settlement offset until after the authority is granted.
- (3) If, after the early arrangement is entered into, but not more than 10 business days after the authority for the prescribed activity is granted—
  - (a) there is a change in the way the prescribed activity is proposed to be carried out that will result in a change to the impact; and

[s 13D]

---

- (b) the administering agency decides that the impact that is counterbalanced under the early arrangement differs from the impact likely to arise from the prescribed activity;  
the administering agency must give the entity a notice under subsection (4).
- (4) The administering agency's notice must state—
  - (a) the environmental offset is required to be delivered in a way that differs from the way stated in the early arrangement; and
  - (b) the entity is required to enter into another agreed delivery arrangement to that effect, within a stated reasonable period; and
  - (c) the reasons for the decision; and
  - (d) that the entity may apply for a review of the decision; and
  - (e) how and when the entity may apply for a review of the decision.
- (5) A regulation may provide for a review of the decision to require the environmental offset to be delivered in a way that differs from the way stated in the early arrangement.

### **13D Insertion of new s 19B**

Part 6, division 2—

*insert—*

#### **19B Deemed condition for agreed delivery arrangement**

- (1) This section applies to an authority, granted by an administering agency under another Act, to carry out a prescribed activity to which an offset condition relates.



- (2) It is a condition of the authority that the authority holder must have entered into an agreed delivery arrangement with the administering agency, before starting—
  - (a) any works that impact on the prescribed environmental matter to which the offset condition relates; or
  - (b) if the authority allows the prescribed activity to be carried out in stages—any works for the stage that impact on the prescribed environmental matter to which the offset condition relates.

**13E Replacement of s 20 (Amending agreement after prescribed activity starts)**

Section 20—

*omit, insert—*

**20 Amending agreement after prescribed activity starts**

- (1) This section applies if—
  - (a) an administering agency and an authority holder have entered into an agreed delivery arrangement that involves a proponent-driven offset; and
  - (b) the authority holder has started the prescribed activity to which the authority relates.
- (2) The authority holder and administering agency may, by entering into another agreed delivery arrangement, amend either or both of the following—
  - (a) the agreed delivery arrangement;
  - (b) an offset delivery plan about the delivery of the proponent-driven offset.

[s 13F]

---

- (3) In considering whether to enter into a further agreed delivery arrangement, the administering agency must consider the matters mentioned in section 19(1)(a) and (b).
- (4) An offset delivery plan amended under this section must comply with section 18(4) and (5).

### **13F Replacement of s 21 (What is a *proponent-driven offset*)**

Section 21—

*omit, insert—*

#### **21 What is a *proponent-driven offset***

A *proponent-driven offset* is an environmental offset that an entity undertakes directly or indirectly.

*Example of an entity indirectly undertaking an environmental offset—*

An entity may deliver an environmental offset by contracting with a broker to carry out activities on the entity's behalf.

### **13G Amendment of s 23 (What is a *financial settlement offset*)**

Section 23—

*insert—*

- (2) The amount of the payment is—
  - (a) if the administering agency is a local government—an amount up to the amount determined by the local government in accordance with the environmental offsets policy; or
  - (b) for any other administering agency—an amount determined by the administering agency in accordance with the environmental offsets policy.

---

**13H Amendment of s 24 (Requirements for financial settlement offsets)**

Section 24(3)—

*omit, insert—*

- (3) The authority holder may pay the amount required by the agreed delivery arrangement for a stage of the prescribed activity only if the authority allows the prescribed activity to be carried out in stages.

**14 Insertion of new pt 6A**

After part 6—

*insert—*

**Part 6A When offset conditions stop applying**

**25A Removing duplicate conditions**

- (1) This section applies if, after an offset condition is imposed, any of the following offset conditions is imposed—
  - (a) a Commonwealth condition for an area that is not a protected area;
  - (b) a State condition;
  - (c) a local government condition.
- (2) The authority holder may, at any time and free of charge, apply for an amendment of the authority to remove one of the conditions on the basis that the conditions are duplicate conditions.
- (3) The authority holder must apply, in the approved form, to—
  - (a) if one of the offset conditions is a Commonwealth condition mentioned in subsection (1)(a)—the administering agency

[s 14]

---

- that imposed the offset condition that is not a Commonwealth condition, to remove the offset condition imposed by that agency; or
- (b) otherwise—
- (i) the administering agency prescribed by regulation, to remove the condition imposed by that agency; or
- (ii) if an administering agency is not prescribed by regulation—either administering agency that imposed an offset condition, to remove the offset condition imposed by that agency.
- (4) The administering agency must decide the application within 10 business days after receiving the application.
- (5) The administering agency may decide to amend the authority if satisfied that the conditions are duplicate conditions.
- (6) If the administering agency decides to amend the authority by removing the condition, the agency may also make any other amendments that the agency considers—
- (a) relate to the removal of the condition; and
- (b) are necessary or desirable.
- (7) If the administering agency decides to amend the authority, the agency must, within 10 days after making the decision—
- (a) give the amended authority to the authority holder; and
- (b) include a copy of the amended authority in the register kept under section 90.
- (8) If the administering agency decides not to amend the authority, the administering agency must give the authority holder a notice that states—

- 
- (a) the decision and the reasons for the decision; and
  - (b) that the holder may apply for a review of the decision; and
  - (c) how and when the holder may apply for a review of the decision.
- (9) A regulation may provide for a review of the decision.
- (10) Any provisions in the Act under which the offset condition was imposed about amending conditions of an authority, other than a provision mentioned in section 5, do not apply to an offset condition that is amended under this section.
- (11) In this section—
- duplicate conditions* are offset conditions that relate to—
- (a) the same, or substantially the same, impact; and
  - (b) the same, or substantially the same, prescribed environmental matter.

## **15 Amendment of s 93 (Regulation-making power)**

Section 93(2)(b), ‘an owner’—

*omit, insert—*

the chief executive or a local government

## **15A Insertion of new ss 95A and 95B**

Part 13—

*insert—*

### **95A Undecided applications for authorities**

- (1) This section applies if—

[s 15A]

---

- (a) an application for an authority was made under an existing Act, but not dealt with, before the commencement; and
  - (b) that Act allowed for an offset condition to be imposed on the authority; and
  - (c) the administering agency is deciding whether to impose on the authority a condition in relation to an environmental offset.
- (2) The administering agency may, at the request of or with the agreement of the applicant, consider all or part of the environmental offsets policy under this Act instead of all or part of any policy about environmental offsets (however described) under the existing Act.
- (3) This section applies despite section 95.

### **95B Amendment of existing authorities**

- (1) This section applies to the following authorities granted under an existing Act if that Act allowed for an offset condition to be imposed on the authority—
- (a) an existing authority;
  - (b) an authority granted, on or after the commencement, as the result of an application that was made, but not dealt with, before the commencement.
- (2) The authority holder may, at any time and free of charge, apply for an amendment of the authority—
- (a) to allow the selection and delivery of an environmental offset in accordance with the environmental offsets policy; or

- (b) to allow a financial settlement offset (however described) determined in accordance with the environmental offsets policy; or
- (c) to remove a requirement to provide an environmental offset for—
  - (i) an environmental value that is not a prescribed environmental matter under this Act; or
  - (ii) an impact on a prescribed environmental matter that is not a significant residual impact.
- (3) The authority holder must apply, in the approved form, to the administering agency that issued the authority.
- (4) The administering agency must decide the application within 20 business days after receiving the application.
- (5) The administering agency may decide to make the amendment only if satisfied that the environmental values for which the environmental offset was required have not yet been impacted by the activity that is authorised by the authority.
- (6) If the administering agency decides to make the amendment, the agency may also make any other amendments that the agency considers—
  - (a) relate to the amendment; and
  - (b) are necessary or desirable.
- (7) If the administering agency decides to amend the authority, the agency must, within 10 business days after making the decision—
  - (a) give the amended authority to the authority holder; and

[s 16]

---

- (b) include a copy of the amended authority in the register kept under section 90.
- (8) If the administering agency decides not to amend the authority, the administering agency must give the authority holder a notice that states—
  - (a) the decision and the reasons for the decision; and
  - (b) that the holder may apply for a review of the decision; and
  - (c) how and when the holder may apply for a review of the decision.
- (9) A regulation may provide for a review of the decision.
- (10) Any provisions in the Act under which the offset condition was imposed about amending conditions of an authority, other than a provision mentioned in section 5, do not apply to an offset condition that is amended under this section.
- (11) This section applies despite section 95.

## 16 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *administering agency* and *impose*—  
*omit.*
- (2) Schedule 2—  
*insert—*

### *administering agency*—

- (a) for an authority under the Planning Act, means—
  - (i) for an offset condition to which section 255D(3) of that Act applies—the entity nominated under that subsection; or



- (ii) for an offset condition for which a concurrence agency has the power to tell, or has told, an assessment manager to impose—the concurrence agency; or
  - (iii) for any other offset condition—the assessment manager; or
- (b) for an authority under any other Act, means an entity that, under another Act, performs a function in relation to—
- (i) the grant of an authority for a prescribed activity; or
  - (ii) enforcing compliance with the conditions of an authority for a prescribed activity, or otherwise administering the authority; or
- (c) for part 7, see section 26.

***agreed delivery arrangement*** see section 19(4).

***Commonwealth condition*** means a condition that may be imposed on a licence, permit or other authority under a relevant Commonwealth Act, the effect of which is equivalent to an offset condition.

***existing***, for part 5, see section 13A.

***impose***, in relation to an offset condition—

- (a) for an authority under another Act—means apply the offset condition (however the application is described in the other Act); and
- (b) for an authority under the Planning Act—includes tell an assessment manager under that Act to impose an offset condition; and

[s 16]

---

- (c) for an agreement entered into under another Act—means include the offset condition in the agreement.

**local government condition** means an offset condition that may be imposed on an authority by a local government.

**Planning Act** means the *Sustainable Planning Act 2009*.

**relevant Commonwealth Act** means any of the following—

- (a) the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth);
- (b) the *Great Barrier Reef Marine Park Act 1975* (Cwlth);
- (c) another Commonwealth Act prescribed under a regulation for this definition.

**State condition** means an offset condition that may be imposed on an authority by the State.

- (3) Schedule 2, definition *matter of local environmental significance*, ‘see section 10(4)’—

*omit, insert*—

means a matter prescribed to be a prescribed environmental matter under section 10(1)(c)

---

## **Part 5**                      **Amendment of Environmental Protection Act 1994**

### **Division 1**                **Preliminary**

#### **17**      **Act amended**

This part amends the *Environmental Protection Act 1994*.

*Note—*

See also amendments in schedule 1.

### **Division 2**                **Amendments commencing on assent**

#### **17A**    **Amendment of s 17 (Serious environmental harm)**

Section 17(1)(b)—

*omit, insert—*

(b) caused to—

- (i) an area of high conservation value; or
- (ii) an area of special significance, such as the Great Barrier Reef World Heritage Area; or

#### **18**      **Replacement of s 18 (Meaning of *environmentally relevant activity*)**

Section 18—

*omit, insert—*

##### **18**    **Meaning of *environmentally relevant activity***

Each of the following is an *environmentally relevant activity*—

[s 19]

---

- (a) an agricultural ERA as defined under section 75;
- (b) a resource activity as defined under section 107;
- (c) an activity prescribed under section 19 as an environmentally relevant activity.

**19 Amendment of s 19 (Environmentally relevant activity may be prescribed)**

- (1) Section 19, ‘activity, other than an agricultural ERA or a resource activity,’—

*omit, insert—*

activity

- (2) Section 19—

*insert—*

- (2) To remove any doubt, a regulation made under subsection (1) may not modify the definition of an agricultural ERA or a resource activity.

**20 Insertion of new s 19A**

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

*insert—*

**19A Interaction between prescribed ERAs and resource activities**

- (1) This section applies in relation to an environmental authority for a resource activity if 1 or more activities (each an *ancillary activity*) carried out under the authority as part of a resource activity is also a prescribed ERA.
- (2) The resource activity is taken to be comprised of—
  - (a) the ancillary activities; and

- 
- (b) the other activities carried out under the authority as a resource activity.
  - (3) The ancillary activities are taken to be resource activities for the purpose of applications for an environmental authority.
  - (4) However, the ancillary activities are taken to be prescribed ERAs for the purpose of the following—
    - (a) the power to impose conditions on the environmental authority under chapter 5, part 5, division 6;
    - (b) the fees that apply to the environmental authority under this Act.

**21 Amendment of s 47 (When EIS may be submitted)**

Section 47(1)(b), ‘or after’—

*omit.*

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

(1) Section 49(1)—

*omit, insert—*

- (1) The chief executive must consider the submitted EIS and decide whether to allow it to proceed under division 4 within 20 business days after the EIS is submitted (the *decision period*).
  - (1A) The decision period may be extended if, at any time before the decision is made, the proponent agrees in writing to the extension.
- (2) Section 49(6)—

*insert—*

[s 23]

---

- (d) that the proponent may, under section 49A, resubmit the EIS.
- (3) Section 49(1A) to (6)—  
*renumber* as section 49(2) to (7).

## **23 Insertion of new s 49A**

After section 49—

*insert—*

### **49A Proponent may resubmit EIS**

- (1) This section applies if the chief executive decides, under section 49, to refuse to allow the EIS to proceed and the proponent—
  - (a) does not apply, under section 50, to the Minister to review the decision; or
  - (b) applies, under section 50, to the Minister to review the decision and the Minister confirms the decision.
- (2) The proponent may resubmit, with changes, the EIS to the chief executive within—
  - (a) 3 months after the day notice of the decision is given to the proponent under section 49(8); or
  - (b) if the chief executive and the proponent have, within the 3 months, agreed to a different period—the different period.
- (3) The proponent may resubmit the EIS under subsection (2) only once.
- (4) The resubmitted EIS must be accompanied by the fee prescribed by regulation.
- (5) The following provisions apply to the resubmitted EIS as if a reference in the provision to an EIS or submitted EIS were a reference to the resubmitted EIS—

- (a) section 48;
- (b) section 49, other than section 49(9)(d);
- (c) section 50.

**24 Amendment of s 50 (Ministerial review of refusal to allow to proceed)**

(1) Section 50(2)(b), 'section 49(5)'—

*omit, insert—*

section 49(8)

(2) Section 50(5), 'section 49(6)'—

*omit, insert—*

section 49(9)

**25 Amendment of s 51 (Public notification)**

Section 51(1), 'section 49(5)'—

*omit, insert—*

section 49(8)

**26 Amendment of s 52 (Required content of EIS notice)**

Section 52(2)(a), 'section 49(3)'—

*omit, insert—*

section 49(6)

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

(1) Section 56A—

*insert—*

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---

- (2A) The period may be extended if, at any time before the decision is made, the proponent has agreed in writing to the extension.
- (2) Section 56A(5)—  
*insert—*
- (d) that the proponent may, under section 56AA, resubmit the EIS and the proponent's response to the submissions.
- (3) Section 56A(2A) to (5)—  
*renumber* as section 56A(3) to (6).

## 28 Insertion of new s 56AA

After section 56A—

*insert—*

### **56AA Proponent may resubmit EIS**

- (1) This section applies if the chief executive decides, under section 56A, to refuse to allow the EIS to proceed and the proponent—
- (a) does not apply, under section 56B, to the Minister to review the decision; or
- (b) applies, under section 56B, to the Minister to review the decision and the Minister confirms the decision.
- (2) The proponent may resubmit, with changes, the submitted EIS and the proponent's response to the submissions to the chief executive within—
- (a) 20 business days after notice of the decision is given to the proponent under section 56A(8); or
- (b) if the chief executive and the proponent have, within the 20 business days, agreed to a different period—the different period.



- (3) The proponent may resubmit under subsection (2) only once.
- (4) A resubmitted EIS must be accompanied by the fee prescribed by regulation.
- (5) The following provisions apply to the resubmitted EIS and response to submissions as if a reference in the provision to a submitted EIS or the proponent's response to the submissions were a reference to the resubmitted EIS or proponent's response to the submissions—
  - (a) section 56A, other than section 56A(8)(d);
  - (b) section 56B.

**29 Amendment of s 56B (Ministerial review of refusal to allow submitted EIS to proceed)**

- (1) Section 56B(2)(c), 'section 49(5)'—

*omit, insert—*

section 49(8)

- (2) Section 56B(2)(c), 'section 56A(4)'—

*omit, insert—*

section 56A(7)

**30 Amendment of s 57 (EIS assessment report)**

Section 57(1), 'section 56A(4)'—

*omit, insert—*

section 56A(7)

**31 Amendment of s 63 (Disclosure of relevant documents or information)**

Section 63(a) and (b)—

*omit, insert—*

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---

- (a) is mentioned in this part; or
- (b) is required to be given to the chief executive under this part; or
- (c) relates to the project or the process under this part.

**32 Amendment of s 64 (Making of inquiry does not of itself alter EIS process)**

Section 64, note—

*omit.*

**33 Amendment of s 112 (Other key definitions for ch 5)**

Section 112, definition *eligibility criteria*—

*omit, insert—*

*eligibility criteria*, for an environmentally relevant activity, means eligibility criteria that are in effect for the activity under—

- (a) an ERA standard; or
- (b) section 707A or 707B.

**34 Amendment of s 136 (When does application stage end)**

Section 136(b)—

*omit, insert—*

- (b) otherwise, the earlier of the following—
  - (i) if the administering authority is satisfied the requirements under the application stage have been complied with—when the administering authority becomes satisfied the requirements have been complied with;
  - (ii) 10 business days after the administering authority receives the application.

---

**35 Amendment of s 148 (When does information stage end)**

Section 148(b)—

*omit, insert—*

- (b) if an information request has not been made, the earlier of the following—
  - (i) when the administering authority decides not to make an information request;
  - (ii) the information request period has ended.

**36 Amendment of s 165 (When does decision stage start—general)**

Section 165(1), ‘the day after’—

*omit, insert—*

when

**37 Amendment of s 207 (Conditions that may be imposed)**

Section 207—

*insert—*

- (4) Also, a condition imposed on an authority may restrict, or impose requirements on, the carrying out of the relevant activity.

**38 Amendment of s 213 (Amendment of environmental authorities to reflect new standard conditions)**

Section 213(1)(b) and (c)—

*omit, insert—*

- (b) after the existing authority is issued, the chief executive makes an ERA standard providing for standard conditions for the activity; and

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- (c) the ERA standard states that the standard conditions apply to existing authorities that are subject to standard conditions for the activity; and

### 39 Amendment of s 223 (Definitions for pt 7)

- (1) Section 223—

*insert—*

***condition conversion***, for an environmental authority, means an amendment replacing all of the conditions of the authority with the standard conditions for the environmentally relevant activity to which the authority relates.

***minor amendment***, for an environmental authority, means an amendment that is—

- (a) a condition conversion; or
- (b) a minor amendment (threshold).

- (2) Section 223, definition *minor amendment* not inserted under subsection (1), after ‘*amendment*’—

*insert—*

***(threshold)***

- (3) Section 223, definition *minor amendment (threshold)*, paragraph (a)—

*omit, insert—*

- (a) is not a change to a condition identified in the authority as a standard condition, other than—
  - (i) a change that is a condition conversion; or
  - (ii) a change that is not a condition conversion but that replaces a standard condition of the authority with a standard condition for the

environmentally relevant activity to which the authority relates; and

**40 Amendment of s 226 (Requirements for amendment application generally)**

Section 226—

*insert—*

- (3) Also, subsection (1)(d) to (f) and (i) to (n) does not apply to an application for a condition conversion.

**41 Insertion of new ch 5, pt 7, div 2A**

Chapter 5, part 7—

*insert—*

**Division 2A Provision for particular amendment applications**

**227A Early refusal of particular amendment applications and requirement to replace environmental authority**

- (1) This section applies to an amendment application if the proposed amendment would change a condition imposed under section 204 on the environmental authority to which the application relates.
- (2) The administering authority may, within 10 business days after receiving the amendment application, refuse the application under this section.
- (3) Also, if the administering authority refuses the application, the authority may require the holder of the environmental authority to make a site-specific application for a new environmental

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authority under part 2 to replace the environmental authority.

- (4) However, section 314(3) to (7) applies to the requirement as if a reference to the holder of the environmental authority were a reference to the applicant.
- (5) The administering authority must give the applicant written notice of any refusal under subsection (2).
- (6) Divisions 3 to 5 do not apply to the amendment application if the administering authority refuses the application under this section.

#### **42 Insertion of new s 227B**

Chapter 5, part 7, division 3—

*insert*—

##### **227B Amendment applications to which div 3 does not apply**

This division does not apply to an amendment application for a condition conversion.

#### **43 Amendment of s 240 (Deciding amendment application)**

Section 240(1)—

*omit, insert*—

- (1) The administering authority must decide either to approve or refuse the application—
  - (a) if the application is for a condition conversion—within 10 business days after the application is received; or
  - (b) otherwise—within 10 business days after notice of the assessment level decision is given to the applicant.

**44 Amendment of s 241 (Criteria for deciding amendment application)**

Section 241, after ‘application,’—

*insert—*

other than an application for a condition conversion,

**45 Amendment of s 242 (Steps after deciding amendment application)**

Section 242(3), ‘10 business days’—

*omit, insert—*

5 business days

**46 Amendment of ch 5, pt 8, hdg (Amalgamating environmental authorities)**

Chapter 5, part 8, heading, after ‘Amalgamating’—

*insert—*

**and de-amalgamating**

**47 Amendment of s 243 (Definitions for pt 8)**

Section 243—

*insert—*

*amalgamated environmental authority* see section 245(1).

*de-amalgamation application* means an application made under section 250A.

*transfer tenure* see section 250A(1)(b)(iii).

**48 Insertion of new ch 5, pt 8, div 1A, hdg**

After section 244—

*insert—*

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---

## **Division 1A      Amalgamating environmental authorities**

### **49      Amendment of ch 5, pt 8, div 3, hdg (Miscellaneous provisions)**

Chapter 5, part 8, division 3, heading, after ‘provisions’—  
*insert—*

**for amalgamation applications**

### **50      Insertion of new ch 5, pt 8, div 4**

Chapter 5, part 8—  
*insert—*

## **Division 4      De-amalgamating environmental authorities**

### **250A Who may apply for de-amalgamation**

- (1) The holder of a relevant authority may make an application to the administering authority for the de-amalgamation of the authority if—
  - (a) the authority is not for a resource project; or
  - (b) the authority is for a resource project and—
    - (i) the project is no longer being carried out as a single integrated operation; or
    - (ii) the existing holder is proposing to no longer carry out the project as a single integrated operation; or
    - (iii) the existing holder is proposing to transfer to another person a resource tenure (a *transfer tenure*) to which the authority relates.
- (2) In this section—



*relevant authority* means—

- (a) an amalgamated environmental authority: or
- (b) an environmental authority issued for an ERA project.

### **250B Requirements for de-amalgamation application**

A de-amalgamation application must—

- (a) be made in the approved form; and
- (b) if the application relates to a resource project—be accompanied by a declaration by the applicant that—
  - (i) the project is no longer being carried out as a single integrated operation; or
  - (ii) the existing holder is proposing to no longer carry out the project as a single integrated operation; or
  - (iii) the existing holder is proposing to transfer to another person a resource tenure to which the authority relates; and
- (c) be accompanied by the fee prescribed by a regulation.

### **250C De-amalgamation**

Within 15 business days after receiving a de-amalgamation application that complies with section 250B, the administering authority must—

- (a) de-amalgamate the relevant authority to give effect to the de-amalgamation; and
- (b) issue 2 or more environmental authorities to the applicant; and

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- (c) include a copy of each environmental authority issued under paragraph (b) in the relevant register.

### **250D When de-amalgamation takes effect**

The de-amalgamation of an environmental authority takes effect—

- (a) if it relates to a transfer tenure—when the transfer tenure is transferred; or
- (b) if it relates to a relevant authority for a resource project for which the existing holder proposes to no longer carry out the project as a single integrated operation—when the existing holder stops carrying out the project as a single integrated operation; or
- (c) otherwise—when the administering authority issues 2 or more environmental authorities to the applicant under section 250C(b).

### **51 Amendment of s 278 (Cancellation or suspension by administering authority)**

Section 278(2), after paragraph (b)—

*insert—*

- (baa)an application by the environmental authority holder made under section 302 to increase the amount of financial assurance given for the authority has been approved but the amount of the increase of the financial assurance has not been given;

---

**52 Amendment of s 284B (Requirements for suspension application)**

Section 284B(2)—

*omit, insert—*

- (2) The nominated period of the proposed suspension must be for 1, 2 or 3 years from the next anniversary day for the environmental authority.

**53 Amendment of s 293 (New holder must give financial assurance before acting under environmental authority or small scale mining tenure)**

Section 293(2), penalty, '1665 penalty units'—

*omit, insert—*

4500 penalty units

**54 Amendment of s 295 (Deciding amount and form of financial assurance)**

Section 295(3)(a)—

*omit, insert—*

- (a) any relevant regulatory requirements; and

**55 Amendment of s 302 (Who may apply)**

- (1) Section 302(1)(a), from 'as' to '296'—

*omit.*

- (2) Section 302—

*insert—*

- (3) To remove any doubt, it is declared that an application to amend financial assurance may be to decrease or increase the amount.

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**56 Amendment of s 303 (Requirements for application)**

Section 303(b)(i), from ‘stated’ to ‘296’—

*omit.*

**57 Amendment of s 307 (Replenishment of financial assurance)**

(1) Section 307(1)(a), ‘for a resource activity, other than a mining activity,’—

*omit.*

(2) Section 307(2)(b), from ‘so’ to ‘296’—

*omit, insert—*

to the amount that was held by the administering authority before the financial assurance started to be realised

**58 Amendment of s 309 (Particular requirement for annual return for CSG environmental authority)**

Section 309(1)—

*omit, insert—*

(1) This section applies to the holder of an environmental authority for a CSG activity if—

- (a) the activity is an ineligible ERA; and
- (b) the holder of the authority is required to give an annual return under section 308(3)(a).

**59 Omission of s 309A (Particular requirement for annual return for existing petroleum tenure under P&G Act)**

Section 309A—

*omit.*

**60 Amendment of s 314 (Requirement to replace environmental authority if non-compliance with eligibility criteria)**

(1) Section 314(2)(a), ‘part 2;’—

*omit, insert—*

part 2 to replace the environmental authority;

(2) Section 314(7), penalty, ‘1665 penalty units’—

*omit, insert—*

4500 penalty units

**61 Replacement of ch 5A, pts 1 and 2**

Chapter 5A, parts 1 and 2—

*omit, insert—*

**Part 1 ERA standards**

**317 Definitions for pt 1**

In this part—

*ERA standard* means a standard made under section 318.

*consultation period*, for an ERA standard, see section 318A(1)(b)(ii).

*relevant existing authority*, for an ERA standard, means an environmental authority—

- (a) issued before the ERA standard is made; and
- (b) subject to conditions identified in the authority as standard conditions for the environmentally relevant activity to which the ERA standard relates.

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### **318 Chief executive may make ERA standard**

- (1) The chief executive may make a standard for—
  - (a) the eligibility criteria for an environmentally relevant activity; and
  - (b) the standard conditions for an environmentally relevant activity.
- (2) An ERA standard mentioned in subsection (1) may state that the standard conditions apply to relevant existing authorities.

### **318A Notice of proposed ERA standards**

- (1) Before the chief executive makes an ERA standard, the chief executive must publish the following on the department's website—
  - (a) a copy of the proposed ERA standard;
  - (b) a notice stating—
    - (i) that a person may make a submission to the chief executive about the proposed ERA standard; and
    - (ii) the period, of at least 30 business days, (the *consultation period*) during which a submission may be made; and
    - (iii) how to make a submission; and
    - (iv) if standard conditions provided for under the proposed ERA standard will apply to relevant existing authorities—that the standard conditions provided for under the proposed ERA standard will apply to relevant existing authorities.
- (2) The chief executive must ensure the documents mentioned in subsection (1) are published on the department's website throughout the consultation period.

- (3) Subsections (4) and (5) apply if standard conditions provided for under the proposed ERA standard will apply to relevant existing authorities.

*Note—*

The administering authority may amend a relevant existing authority to reflect new standard conditions in particular circumstances. See section 213.

- (4) The chief executive must give written notice about the proposed ERA standard to each holder of a relevant existing authority that is in effect immediately before the consultation period starts under subsection (1) and for which the proposed standard conditions in the ERA standard will apply.
- (5) A notice under subsection (4) must state—
- (a) that the chief executive proposes to make an ERA standard that will apply to the holder's relevant existing authority; and
  - (b) details of the department's website address; and
  - (c) that the holder may make a submission to the chief executive about the proposed ERA standard during the consultation period.

### **318B Consideration of submissions**

The chief executive must consider all submissions made during the consultation period before deciding whether to make an ERA standard.

### **318C Publication of ERA standard**

The chief executive must publish a copy of each ERA standard made by the chief executive on the department's website.

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### **318D Approval of ERA standard by regulation**

An ERA standard takes effect when it is approved by a regulation.

### **318DA Minor amendment of ERA standard**

- (1) The chief executive may make a minor amendment of an ERA standard by publishing a copy of the amended ERA standard on the department's website.
- (2) The amended ERA standard takes effect when it is approved by a regulation.
- (3) In this section—

*minor amendment*, of an ERA standard, means an amendment of the standard—

- (a) to change a title or department name; or
- (b) to correct a spelling or grammatical error; or
- (c) to change terminology that has no effect on the operation of the standard; or
- (d) to make another change the chief executive is satisfied is not a change of substance.

*Note*—

An amendment of an ERA standard other than a minor amendment is made by the making of a new ERA standard.

## **62 Amendment of s 323 (Administering authority may require environmental audit about other matters)**

- (1) Section 323(1)(a), 'or a transitional environmental program'—

*omit, insert*—

, a transitional environmental program or an enforceable undertaking



---

(2) Section 323(1)(b)(iv)—

*omit, insert—*

(iv) a provision of chapter 8, part 3E or 3F.

**63 Amendment of s 330 (What is a transitional environmental program)**

Section 330—

*insert—*

(2) However, a transitional environmental program must not be used to achieve compliance with an enforceable undertaking.

**64 Amendment of s 331 (Content of program)**

Section 331, after ‘must’—

*insert—*

be in the approved form and

**65 Amendment of s 357 (Power of Court to make order pending decision on application)**

Section 357(5), penalty—

*omit, insert—*

Maximum penalty for subsection (5)—

- (a) if the offence is committed wilfully—6250 penalty units or 5 years imprisonment; or
- (b) otherwise—4500 penalty units.

**66 Insertion of new s 357AAA**

Chapter 7, part 4A, before section 357A—

*insert—*

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### **357AAA Definition for pt 4A**

In this part—

*applicable event* see section 357A.

### **67 Amendment of s 357A (What is an *applicable event*)**

Section 357A, from ‘that’—

*omit, insert*—

that—

- (a) was not foreseen; or
- (b) was foreseen but, because of a low probability of occurring, it was not considered reasonable to impose a condition on the authority to deal with the event or series of events;

when particular conditions were imposed on an environmental authority, when a transitional environmental program was approved, or when amendments to an approved transitional environmental program were approved.

### **68 Amendment of s 357B (Who may apply for temporary emissions licence)**

(1) Section 357B(1)—

*omit, insert*—

- (1) A person may apply for a licence (a *temporary emissions licence*) that permits the temporary relaxation or modification of—
  - (a) particular conditions of an environmental authority; or
  - (b) particular requirements or conditions of a transitional environmental program;

that relate to the release of a contaminant into the environment in response to an applicable event.

(2) Section 357B(2)—

*omit, insert—*

(2) A person may apply for a temporary emissions licence only if the person is the holder of—

(a) an environmental authority; or

(b) a transitional environmental program.

## **69 Amendment of s 357G (Temporary emissions licence)**

(1) Section 357G(1)(c)—

*omit, insert—*

(c) for an environmental authority—the conditions of the environmental authority that the licence overrides;

(ca) for a transitional environmental program—the requirements or conditions of the transitional environmental program that the licence overrides;

(2) Section 357G(1)(ca) and (d)—

*renumber* as section 357G(1)(d) and (e).

(3) Section 357G(2), ‘the activity’—

*omit, insert—*

an act, or to make an omission,

## **70 Amendment of s 357I (Failure to comply with conditions of licence)**

Section 357I, penalty—

*omit, insert—*

Maximum penalty—

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---

- (a) if the offence is committed wilfully—6250 penalty units or 5 years imprisonment; or
- (b) otherwise—4500 penalty units.

**71 Amendment of s 358 (When order may be issued)**

Section 358(e)(iv)—

*omit, insert—*

- (iv) a provision of chapter 8, part 3E or 3F.

**72 Amendment of s 361 (Offence not to comply with order)**

- (1) Section 361(1), penalty—

*omit, insert—*

Maximum penalty—6250 penalty units or 5 years imprisonment.

- (2) Section 361(2), penalty, ‘1665 penalty units’—

*omit, insert—*

4500 penalty units

**73 Amendment of s 363A (Prescribed provisions)**

- (1) Section 363A(1)(a), after ‘section’—

*insert—*

426,

- (2) Section 363A(1)(a), editor’s note—

*omit.*

**74 Amendment of s 363E (Offence not to comply with a direction notice)**

Section 363E, penalty—

*omit, insert—*

Maximum penalty—

- (a) if the offence is committed wilfully—1665 penalty units; or
- (b) otherwise—600 penalty units.

**75 Amendment of s 363I (Offence not to comply with clean-up notice)**

Section 363I(1), penalty—

*omit, insert—*

Maximum penalty—

- (a) if the offence is committed wilfully—6250 penalty units or 5 years imprisonment; or
- (b) otherwise—4500 penalty units.

**76 Amendment of s 426 (Environmental authority required for particular environmentally relevant activities)**

Section 426(1), penalty, ‘1665 penalty units’—

*omit, insert—*

4500 penalty units

**77 Amendment of s 430 (Contravention of condition of environmental authority)**

(1) Section 430(2), penalty—

*omit, insert—*

Maximum penalty—6250 penalty units or 5 years imprisonment.

(2) Section 430(3), penalty, ‘1665 penalty units’—

*omit, insert—*

4500 penalty units

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**78 Amendment of s 432 (Contravention of requirement of program)**

(1) Section 432(1), penalty—

*omit, insert—*

Maximum penalty—6250 penalty units or 5 years imprisonment.

(2) Section 432(2), penalty, ‘835 penalty units’—

*omit, insert—*

4500 penalty units

**79 Amendment of s 432A (Contravention of condition of approval)**

Section 432A, penalty—

*omit, insert—*

Maximum penalty—

- (a) if the contravention is done wilfully—6250 penalty units or 5 years imprisonment; or
- (b) otherwise—4500 penalty units.

**80 Amendment of s 434 (Contravention of plan)**

(1) Section 434(1), penalty—

*omit, insert—*

Maximum penalty—6250 penalty units or 5 years imprisonment.

(2) Section 434(2), penalty, ‘835 penalty units’—

*omit, insert—*

4500 penalty units

---

**81 Amendment of s 435A (Offence to contravene prescribed conditions for particular activities)**

- (1) Section 435A(2), penalty, ‘300 penalty units’—  
*omit, insert—*  
6250 penalty units or 5 years imprisonment
- (2) Section 435A(3), penalty, ‘250 penalty units’—  
*omit, insert—*  
4500 penalty units

**82 Amendment of s 437 (Offences of causing serious environmental harm)**

- (1) Section 437(1), penalty, ‘4165 penalty units’—  
*omit, insert—*  
6250 penalty units
- (2) Section 437(2), penalty, ‘1665 penalty units’—  
*omit, insert—*  
4500 penalty units

**83 Amendment of s 438 (Offences of causing material environmental harm)**

- (1) Section 438(1), penalty, ‘1665 penalty units’—  
*omit, insert—*  
4500 penalty units
- (2) Section 438(2), penalty, ‘835 penalty units’—  
*omit, insert—*  
1665 penalty units

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**84 Amendment of s 440 (Offence of causing environmental nuisance)**

(1) Section 440(1), penalty, ‘835 penalty units’—

*omit, insert—*

1665 penalty units

(2) Section 440(2), penalty, ‘300 penalty units’—

*omit, insert—*

600 penalty units

**85 Amendment of s 440Q (Offence of contravening a noise standard)**

Section 440Q(1), penalty—

*omit, insert—*

Maximum penalty—

(a) if the contravention is done wilfully—1665 penalty units; or

(b) otherwise—600 penalty units.

**86 Amendment of s 440ZG (Depositing prescribed water contaminants in waters and related matters)**

Section 440ZG, penalty—

*omit, insert—*

Maximum penalty—

(a) if the deposit or release is done wilfully—1665 penalty units; or

(b) otherwise—600 penalty units.

**87 Omission of ch 8, pt 3D (Offences relating to releases from boats into non-coastal waters)**

Chapter 8, part 3D—



*omit.*

**88 Amendment of s 440ZL (Sale of solid fuel-burning equipment for use in residential premises and related matters)**

Section 440ZL(5), penalty—

*omit, insert—*

Maximum penalty—

- (a) if the contravention is done wilfully—1665 penalty units; or
- (b) otherwise—600 penalty units.

**89 Amendment of s 440ZM (Permitted concentration of sulfur in liquid fuel for use in stationary fuel-burning equipment)**

- (1) Section 440ZM(1), penalty, ‘300 penalty units’—

*omit, insert—*

600 penalty units

- (2) Section 440ZM(2), penalty—

*omit, insert—*

Maximum penalty—

- (a) if the offence is committed wilfully—1665 penalty units; or
- (b) otherwise—600 penalty units.

**90 Amendment of s 442 (Offence of releasing prescribed contaminant)**

Section 442(1), penalty—

*omit, insert—*

Maximum penalty—

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---

- (a) if the offence is committed wilfully—1665 penalty units; or
- (b) otherwise—600 penalty units.

**91 Replacement of s 443 (Offence to place contaminant where environmental harm or nuisance may be caused)**

Section 443—

*omit, insert—*

**443 Offence to place contaminant where serious or material environmental harm may be caused**

A person must not cause or allow a contaminant to be placed in a position where it could reasonably be expected to cause serious or material environmental harm.

Maximum penalty—

- (a) if the offence is committed wilfully—4500 penalty units or 2 years imprisonment; or
- (b) otherwise—1655 penalty units.

**443A Offence to place contaminant where environmental nuisance may be caused**

A person must not cause or allow a contaminant to be placed in a position where it could reasonably be expected to cause environmental nuisance.

Maximum penalty—

- (a) if the offence is committed wilfully—1655 penalty units; or
- (b) otherwise—600 penalty units.

**92 Amendment of s 450 (Protection from liability)**

Section 450—

*insert—*

- (4) This section does not apply to an official if the official is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

**93 Amendment of s 452 (Entry of place—general)**

Section 452(1)—

*insert—*

- (ea) it is a place to which an enforceable undertaking relates and the entry is made when—
- (i) the activity to which the undertaking relates is being carried out; or
  - (ii) the place is open for conduct of business; or
  - (iii) the place is otherwise open for entry; or

**94 Amendment of s 462 (Procedure after seizure of evidence)**

Section 462(5)(a) and (b), ‘6 months’—

*omit, insert—*

1 year

**95 Amendment of s 478 (Failure to comply with authorised person’s direction in emergency)**

Section 478, penalty—

*omit, insert—*

Maximum penalty—

- (a) if the offence is committed wilfully—6250 penalty units or 5 years imprisonment; or
- (b) otherwise—4500 penalty units.

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**96 Amendment of s 480 (False or misleading documents)**

Section 480(1), penalty, ‘1665 penalty units’—

*omit, insert—*

4500 penalty units

**97 Amendment of s 480A (Incomplete documents)**

Section 480A(2), penalty, ‘1665 penalty units’—

*omit, insert—*

4500 penalty units

**98 Amendment of s 481 (False or misleading information)**

Section 481(1), penalty, ‘1665 penalty units’—

*omit, insert—*

4500 penalty units

**99 Amendment of s 493A (When environmental harm or related acts are unlawful)**

Section 493A(6)—

*insert—*

*Note—*

See also section 508 for circumstances affecting proceedings for a contravention for which an enforceable undertaking has been given.

**100 Amendment of s 497 (Limitation on time for starting summary proceedings)**

Section 497—

*insert—*

(c) if an enforceable undertaking has been made in relation to the offence—within 1 year after—

- (i) the enforceable undertaking is contravened; or
- (ii) the complainant becomes aware that the enforceable undertaking has been contravened; or
- (iii) the administering authority has agreed under section 509 to the withdrawal of the enforceable undertaking.

**101 Amendment of s 498 (Notice of defence)**

Section 498(1), after ‘chapter 8’—

*insert—*

or section 493A(3)

**101A Insertion of new s 504**

Chapter 10, part 3—

*insert—*

**504 Offences relating to Great Barrier Reef World Heritage Area**

- (1) This section applies if—
  - (a) a person is convicted of an offence against this Act; and
  - (b) the commission of the offence caused, or was likely to cause, environmental harm to the Great Barrier Reef World Heritage Area.
- (2) In sentencing the person for the offence, the court must consider the environmental harm caused, or likely to have been caused, to the Great Barrier Reef World Heritage Area.

**102 Insertion of new ch 10, pt 5**

Chapter 10—

*insert—*

## **Part 5                    Enforceable     undertakings**

### **507 Administering authority may accept enforceable undertakings**

- (1) The administering authority may accept a written undertaking (an *enforceable undertaking*) made by a person in relation to a contravention or alleged contravention by the person of this Act, other than an indictable offence.
- (2) An enforceable undertaking must be—
  - (a) in the approved form; and
  - (b) accompanied by the fee prescribed by regulation.
- (3) The administering authority must give the person written notice of—
  - (a) the administering authority’s decision to accept or reject the enforceable undertaking; and
  - (b) the reasons for the decision.
- (4) The administering authority must not accept the enforceable undertaking unless the administering authority reasonably believes that the undertaking will—
  - (a) secure compliance with the Act; and
  - (b) enhance the protection of the environment.
- (5) If the administering authority decides to accept the enforceable undertaking, the administering authority must publish a copy of the undertaking on the administering authority’s website.

- (6) The administering authority may accept an enforceable undertaking in relation to a contravention or alleged contravention at any time before any proceedings in relation to the contravention end.
- (7) If the administering authority accepts an enforceable undertaking after proceedings in relation to the contravention have started, the administering authority must take all reasonable steps to have the proceedings discontinued as soon as practicable.

### **508 Effect of enforceable undertaking**

- (1) An enforceable undertaking takes effect when the administering authority gives the person who made the undertaking notice of the decision to accept the undertaking.
- (2) No proceedings for a contravention or alleged contravention of this Act may be taken against the person in relation to the contravention that is the subject of the undertaking if the person is complying, or has complied, with the undertaking.
- (3) The making of an enforceable undertaking does not constitute an admission of guilt by the person making the undertaking.

### **509 Withdrawal or variation of enforceable undertaking**

- (1) A person who has made an enforceable undertaking may at any time, with the written agreement of the administering authority—
  - (a) withdraw the undertaking; or
  - (b) vary the undertaking.

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- (2) However, the provisions of the undertaking may not be varied to provide for a different alleged contravention of the Act.
- (3) The administering authority must publish notice of the withdrawal or variation of an enforceable undertaking on the administering authority's website.

### **510 Amending enforceable undertaking—with agreement**

The administering authority may amend an enforceable undertaking with the written agreement of the person who made the undertaking.

### **511 Amending enforceable undertaking—clerical or formal errors**

The administering authority may amend an enforceable undertaking to correct a clerical or formal error if—

- (a) the amendment does not adversely affect the interests of the person who made the undertaking or anyone else; and
- (b) the person has been given written notice of the amendment.

### **512 Amending or suspending enforceable undertaking—after show cause process**

- (1) The administering authority may amend or suspend an enforceable undertaking if the administering authority is satisfied—
  - (a) the undertaking was accepted relying on a representation or declaration, made either orally or in writing, that was false or misleading in a material particular; or



- (b) the undertaking was accepted on the basis of a miscalculation of—
    - (i) the environmental values affected or likely to be affected by the relevant activity; or
    - (ii) the quantity or quality of contaminant permitted to be released into the environment; or
    - (iii) the effects of the release of a quantity or the quality of contaminant permitted to be released into the environment; or
  - (c) the amendment or suspension is necessary or desirable because of an environmental audit, investigation or report under chapter 7, part 2; or
  - (d) the amendment or suspension is necessary or desirable because of a significant change in the way in which, or the extent to which, the relevant activity is being carried out that affects the likelihood of the undertaking—
    - (i) securing compliance with this Act; or
    - (ii) enhancing the protection of the environment.
- (2) The administering authority must give the person who made the undertaking a notice that states—
- (a) the action that the administering authority proposes to take; and
  - (b) if the action is an amendment of the undertaking—the amendment; and
  - (c) if the action is a suspension of the undertaking—the period of the suspension; and
  - (d) the grounds for taking the action; and

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- (e) the facts and circumstances that are the basis for the grounds; and
  - (f) that the person may make written representations to show why the action should not be taken; and
  - (g) the period, of at least 20 business days after the person is given the notice, within which the person may make the representations.
- (3) If the administering authority proposes to amend the enforceable undertaking, the notice must be accompanied by a copy of the undertaking that shows the amendment.
  - (4) The administering authority must consider any written representation the person makes within the period stated in the notice.
  - (5) If the administering authority still believes a ground exists to take the action, the authority may decide to take the action.
  - (6) Within 10 business days after making that decision, the administering authority must give the person an information notice about the decision.
  - (7) If the administering authority, at any time, decides not to take the action, the administering authority must promptly give the person written notice of the decision.

### **513 Contravention of enforceable undertaking**

- (1) A person must not contravene an enforceable undertaking made by that person that is in effect.  
Maximum penalty—
  - (a) if the offence is committed wilfully—6250 penalty units or 5 years imprisonment; or
  - (b) otherwise—4500 penalty units.

- 
- (2) Regardless of whether the person is prosecuted for an offence against subsection (1), the administering authority may apply to a Magistrates Court for an order if the person contravenes the enforceable undertaking.
  - (3) If the court is satisfied that the person contravened the undertaking, the court, in addition to imposing any penalty, may make 1 or both of the following orders—
    - (a) an order directing the person to comply with the undertaking;
    - (b) an order discharging the undertaking.
  - (4) Also, the court may make any other order that the court considers appropriate in the circumstances, including an order directing the person to pay to the administering authority—
    - (a) the costs of the proceedings; and
    - (b) the reasonable costs of the administering authority in monitoring compliance with the enforceable undertaking in the future.

**103 Amendment of s 540 (Registers to be kept by administering authority)**

- (1) Section 540(1)(a)—

*insert—*

  - (v) annual returns required under section 308(3)(a) and any evaluation required under section 309;
- (2) Section 540(1), after paragraph (a)—

*insert—*

  - (aa) application documents for an application for an environmental authority, including information requests and responses to information requests;

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(3) Section 540(1)(c)(iii)—

*omit.*

(4) Section 540(1)—

*insert—*

(eb) documents required to be given under—

- (i) a condition of an environmental authority; or
- (ii) a transitional environmental program or a condition of a transitional environmental program; or
- (iii) a condition of a temporary emissions licence;

(5) Section 540(1)—

*insert—*

(ja) accepted enforceable undertakings;

**104 Amendment of s 548 (Chief executive may make guidelines for administering authorities)**

Section 548(1) and (2)—

*omit, insert—*

- (1) The chief executive may make guidelines about—
  - (a) how an administering authority complies with a regulatory requirement; or
  - (b) when an administering authority may accept enforceable undertakings.
- (2) The administering authority must follow any guidelines made by the chief executive.

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**105 Amendment of s 574M (False or misleading information about reports or certification)**

Section 574M(1), penalty, ‘1665 penalty units’—

*omit, insert—*

4500 penalty units

**106 Amendment of s 699 (Existing financial assurance requirement)**

(1) Section 699(3), penalty, ‘1665 penalty units’—

*omit, insert—*

4500 penalty units

(2) Section 699—

*insert—*

(4) The administering authority may amend the environmental authority to which the requirement applies to impose a condition about the financial assurance.

(5) The administering authority must give written notice of the amendment to the environmental authority holder.

**106A Amendment of s 713 (Continued effect to make payment)**

Section 713—

*insert—*

(3) However, the payment is to be made to the offset account under that Act instead of to an environmental offset trust.

**107 Insertion of new ch 13, pt 23**

Chapter 13—

*insert—*

**Part 23**                      **Transitional provisions  
for Environmental  
Protection and Other  
Legislation  
Amendment Act 2014**

**Division 1**                **Preliminary**

**720 Definitions for pt 23**

In this part—

*amending Act* means the *Environmental Protection and Other Legislation Amendment Act 2014*.

*former*, in relation to a provision, means the provision as in force immediately before the amendment of the provision under the amending Act.

**Division 2**                **Transitional provisions for  
amendments commencing  
on assent**

**721 Submission of EIS**

- (1) This section applies if, before the commencement, final terms of reference have been given to a proponent under section 46.
- (2) Former section 47 continues to apply for the submission of an EIS by the proponent.

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## **722 Decision on whether EIS may proceed**

- (1) This section applies if, before the commencement—
  - (a) a proponent has submitted an EIS; and
  - (b) the chief executive has not made a decision under former section 49.
- (2) Section 49 applies to the EIS application.

## **723 Proponent may resubmit EIS**

- (1) This section applies if—
  - (a) before the commencement—
    - (i) a proponent has submitted an EIS; and
    - (ii) the chief executive has not made a decision under former section 49; and
  - (b) after the commencement, the chief executive decides, under section 49, to refuse to allow the EIS to proceed and the proponent—
    - (i) does not apply, under section 50, to the Minister to review the decision; or
    - (ii) applies, under section 50, to the Minister to review the decision and the Minister confirms the decision.
- (2) The proponent may resubmit the EIS, with changes, to the chief executive under section 49A.

## **724 Assessment of adequacy of response to submission and submitted EIS**

- (1) Subsection (2) applies if—
  - (a) before the commencement, a person makes a submission to the chief executive about a submitted EIS; and

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- (b) after the commencement, the chief executive accepts the submission.
- (2) Section 56A applies to the EIS.
- (3) Subsection (4) applies if the chief executive decides, under section 56A, to refuse to allow the EIS to proceed and the proponent—
  - (a) does not apply, under section 56B, to the Minister to review the decision; or
  - (b) applies, under section 56B, to the Minister to review the decision and the Minister confirms the decision.
- (4) Section 56AA applies in relation to the submitted EIS.

### **725 Suspension application**

- (1) This section applies to a suspension application—
  - (a) made, but not decided, before the commencement; and
  - (b) for which the nominated period is not 1, 2 or 3 years.
- (2) The nominated period of the proposed suspension is taken to be the next anniversary day of the environmental authority occurring after the nominated period.

*Example—*

If the nominated period for the proposed suspension is 18 months the nominated period is taken to be 2 years.

- (3) Subsection (2) does not prevent the holder of the environmental authority from ending the suspension under section 284G.



## 726 ERA standards

- (1) This section applies to the eligibility criteria for an environmentally relevant activity and standard conditions in effect under the unamended Act immediately before the commencement.
- (2) The eligibility criteria and standard conditions are taken to be an ERA standard made under section 318.
- (3) In this section—  
*unamended Act* means this Act as in force immediately before the commencement.

## 108 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *amalgamated environmental authority*, *coastal waters*, *consultation period*, *EIS process*, *harmful substance*, *MARPOL*, *non-coastal waters*, *noxious liquid substance*, *oil*, *relevant existing authority*, *sewage* and *standard conditions*—  
*omit*.
- (2) Schedule 4—  
*insert*—  
*amalgamated environmental authority*, for chapter 5, part 8, see section 243.  
*condition conversion*, for chapter 5, part 7, see section 223.  
*consultation period*, for chapter 5A, part 1, see section 317.  
*de-amalgamation application*, for chapter 5, part 8, see section 243.  
*EIS process*, for an EIS, means the process under chapter 3, part 1.  
*enforceable undertaking* see section 507(1).

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***ERA standard***, for chapter 5A, part 1, see section 317.

***Great Barrier Reef World Heritage Area*** means the area listed as the Great Barrier Reef on the World Heritage List kept under the Convention for the Protection of the World Cultural and Natural Heritage done at Paris on 23 November 1972, as amended and in force for Australia from time to time.

***relevant existing authority***, for chapter 5A, part 1, see section 317.

***standard conditions***—

- (a) for an environmental authority—means the standard conditions to which the authority is subject; or
- (b) for an application for an environmental authority—means the standard conditions in effect for the environmentally relevant activity to which the application relates.

***transfer tenure***, for chapter 5, part 8, see section 243.

- (3) Schedule 4, definition *properly made submission*, note, ‘(Notification stage does not apply if EIS process complete)’—

*omit, insert*—

(Notification stage does not apply to particular applications)

## **Division 3                      Amendments commencing by proclamation**

### **109      Amendment of s 13 (Waste)**

- (1) Section 13(1), ‘a resource approved under the Waste Reduction Act, chapter 8’—

---

*omit, insert—*

an end of waste resource

- (2) Section 13(4)—

*omit.*

- (3) Section 13(5), ‘a resource approved under the Waste Reduction Act, chapter 8,’—

*omit, insert—*

an end of waste resource

- (4) Section 13(5)(b), ‘its approval under that chapter’—

*omit, insert—*

its use under an end of waste code or end of waste approval

- (5) Section 13(6)—

*insert—*

***end of waste approval*** see the Waste Reduction Act, section 156.

***end of waste code*** see the Waste Reduction Act, section 156.

***end of waste resource*** means a resource under the Waste Reduction Act, section 156.

- (6) Section 13(5) and (6)—

*renumber* as section 13(4) and (5).

## **110 Amendment of s 112 (Other key definitions for ch 5)**

Section 112, definitions *eligible ERA* and *ineligible ERA*—

*omit, insert—*

***eligible ERA*** means an environmentally relevant activity that complies with the eligibility criteria in effect for the activity.

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*ineligible ERA* means an environmentally relevant activity that is not an eligible ERA.

## 111 Amendment of s 122 (What is a *standard application*)

Section 122—

*insert—*

- (2) An application for an environmental authority, for an environmentally relevant activity that is carried out as part of a coordinated project, is also a *standard application* if—
  - (a) there are Coordinator-General's conditions—
    - (i) that relate to the activity the subject of the application; and
    - (ii) that are the same as the standard conditions for the authority or the activity; and
  - (b) all proposed environmentally relevant activities for the authority are eligible ERAs.

## 112 Amendment of s 123 (What is a *variation application*)

Section 123—

*insert—*

- (2) An application for an environmental authority, for an environmentally relevant activity that is carried out as part of a coordinated project, is also a *variation application* if—
  - (a) there are Coordinator-General's conditions—
    - (i) that relate to the activity the subject of the application; and

- (ii) that are not the same as the standard conditions for the authority or the activity; and
- (b) all proposed environmentally relevant activities for the environmental authority are eligible ERAs.

**113 Amendment of s 125 (Requirements for applications generally)**

(1) Section 125(1)(k)—

*omit, insert—*

- (k) if the application is a variation application—
  - (i) for a variation application under section 123(1)—state the standard conditions for the activity or authority the applicant seeks to change; or
  - (ii) for a variation application under section 123(2)—state the standard conditions that are not the same as the Coordinator-General’s conditions; and

(2) Section 125(2) and (3)—

*omit, insert—*

- (2) Despite subsection (1)(l), if the application is a variation application under section 123(1), it need only include the matters mentioned in that subsection to the extent it seeks to change the standard conditions for the activity or authority.
- (3) Subsection (1)(l) does not apply for an application if—
  - (a) either—
    - (i) the EIS process for an EIS for each relevant activity the subject of the application has been completed; or

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- (ii) the Coordinator-General has evaluated an EIS for each relevant activity the subject of the application and there are Coordinator-General's conditions that relate to each relevant activity; and
  - (b) an assessment of the environmental risks of each relevant activity would be the same as the assessment in the EIS mentioned in paragraph (a)(i), or the evaluation mentioned in paragraph (a)(ii), if completed.
- (4) Also, subsection (1)(l) does not apply for a variation application under section 123(2) if the application seeks only to apply the Coordinator-General's conditions.

#### **114 Amendment of s 126 (Requirements for site-specific applications—CSG activities)**

Section 126—

*insert—*

- (3) This section does not apply for a site-specific application for a CSG activity if—
  - (a) the Coordinator-General has evaluated an EIS for the CSG activity under the State Development Act; and
  - (b) there are Coordinator-General's conditions for each relevant activity the subject of the application; and
  - (c) an assessment of the environmental risks of the activity would be the same as the evaluation mentioned in paragraph (a), if completed.

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**115 Amendment of s 150 (Notification stage does not apply if EIS process complete)**

(1) Section 150, heading, ‘if EIS process complete’—

*omit, insert—*

**to particular applications**

(2) Section 150(1)(a) and (b)—

*omit, insert—*

(a) for an EIS under this Act—the EIS for each relevant activity the subject of the application was notified under section 51 before the application was made; and

(b) for an EIS under the State Development Act—the EIS for each relevant activity the subject of the application was notified under section 33 of that Act before the application was made; and

(ba) the environmental risks of each relevant activity the subject of the application activity have not changed since the EIS mentioned in paragraph (a) or (b) was notified; and

(3) Section 150(1)(ba) and (c)—

*renumber* as section 150(1)(c) and (d).

(4) Section 150(4), definition *EIS process*—

*omit.*

**116 Amendment of s 153 (Required content of application notice)**

(1) Section 153—

*insert—*

(1A) Also, subsection (3) applies if the process for an EIS, for a relevant activity the subject of the

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application, was notified before the application was made.

*Note—*

However, see section 150 if an EIS for all relevant activities the subject of the application was notified before the application was made.

(1B) The application notice must state where, in the application documents mentioned in subsection (1)(d), information about the following changes between the EIS, since the EIS was notified, and the properly made application, are shown—

- (a) the environmental risks of the activity that have changed as a result of the proposed changes to the way the relevant activity is to be carried out;
- (b) proposed changes to the way the relevant activity is to be carried out.

(2) Section 153(1A) to (2)—

*renumber* as section 153(2) to (4).

## **117 Amendment of s 160 (Right to make submission)**

Section 160—

*insert—*

(2) However, for an application to which section 153(3) applies, an entity may, within the submission period, make a submission to the administering authority only about the following matters relating to the application—

- (a) the environmental risks of the activity that have changed as a result of the proposed changes to the way the relevant activity is to be carried out;
- (b) proposed changes to the way the relevant activity is to be carried out.



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**118 Amendment of s 161 (Acceptance of submission)**

Section 161—

*insert—*

- (4) Subsection (5) applies for an application if the process for an EIS, for a relevant activity the subject of the application, was notified before the application was made.

*Note—*

However, see section 150 if an EIS for all relevant activities the subject of the application was notified before the application was made.

- (5) The authority need not accept any part of the submission that the authority reasonably considers is not relevant to the matters mentioned in section 160(2)(a) or (b).

**119 Amendment of s 205 (Conditions that must be imposed for site-specific applications)**

- (1) Section 205, heading, ‘for site-specific applications’—

*omit, insert—*

**if application relates to coordinated project**

- (2) Section 205(1), ‘a site-specific’—

*omit, insert—*

an

- (3) Section 205(2)—

*insert—*

*Note—*

In evaluating an EIS under the State Development Act, the Coordinator-General may state conditions mentioned in section 34D(3)(b) of that Act.

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**120 Amendment of s 228 (Assessment level decision for amendment application)**

Section 228—

*insert—*

- (3) If the assessment level decision is that the amendment is a major amendment, the applicant must pay an assessment fee prescribed by regulation.

**121 Amendment of s 229 (Notice of assessment level decision)**

Section 229—

*insert—*

- (2) Also, if the assessment level decision is that the amendment is a major amendment, the written notice must also state that—
  - (a) the applicant must pay an assessment fee prescribed by regulation; and
  - (b) an assessment of the application under division 4 will not proceed until the assessment fee mentioned in paragraph (a) is paid.

**122 Amendment of s 232 (Relevant application process applies)**

Section 232—

*insert—*

- (3A) Also, if the assessment level decision is that the amendment is a major amendment, an assessment of the application under division 4 may not proceed until the prescribed assessment fee is paid.

---

**123 Amendment of s 320A (Application of div 2)**

(1) Section 320A—

*insert—*

(1A) Also, this division applies to a person who—

(a) is—

- (i) the owner or occupier of contaminated land; or
- (ii) an auditor performing an auditor's function mentioned in section 568(b); and

(b) becomes aware of—

- (i) the happening of an event involving a hazardous contaminant on the contaminated land; or
- (ii) a change in the condition of the contaminated land; or
- (iii) a notifiable activity having been carried out, or being carried out, on the contaminated land;

that is causing, or is reasonably likely to cause, serious or material environmental harm.

*Note—*

See subdivision 3A about the duty of a person mentioned in subsection (2).

(1B) This division applies to a local government that becomes aware—

- (a) that a notifiable activity has been, or is being, carried out on land in the local government area; or
- (b) of—

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- (i) the happening of an event involving a hazardous contaminant in the local government area; or
- (ii) a change in the condition of contaminated land in the local government area;

that is causing, or is reasonably likely to cause, serious or material environmental harm.

*Note—*

See subdivision 3B for the duty of a local government mentioned in subsection (3).

- (2) Section 320A(1A) to (2)—  
*renumber* as section 320A(2) to (4).

## **124 Amendment of s 320B (Duty of employee to notify employer)**

- (1) Section 320B, heading, ‘employee’—  
*omit, insert—*

### **particular employees**

- (2) Section 320B—  
*insert—*

- (1A) However, this section does not apply if the person is carrying out the primary activity as an auditor performing auditor’s functions mentioned in section 568.

- (3) Section 320B(1A) and (2)—  
*renumber* as section 320B(2) and (3).

## **125 Insertion of new ch 7, pt 1, div 2, sdivs 3A and 3B**

Chapter 7, part 1, division 2—

*insert—*

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## **Subdivision 3A Duty of owner, occupier or auditor**

### **320DA Duty of owner, occupier or auditor to notify administering authority**

- (1) A person mentioned in section 320A(2)(a) must, within 24 hours after becoming aware of the event or change mentioned in section 320A(2)(b)(i) or (ii), give the administering authority written notice of the matters stated in subsection (2), unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

- (2) The notice must state—
  - (a) the nature of the event or change in condition; and
  - (b) the circumstances in which the event or change happened.
- (3) A person mentioned in section 320A(2)(a) must, within 20 business days after becoming aware of an activity mentioned in section 320A(2)(b)(iii), give the administering authority written notice of the activity, unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

## **Subdivision 3B Duty of local government**

### **320DB Duty of local government to notify administering authority**

- (1) A local government mentioned in section 320(3)(a) must, within 20 business days after becoming aware that the activity has been, or is being, carried out on land in its area, give the

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administering authority written notice of the activity.

- (2) A local government mentioned in section 320(3)(b) must, within 24 hours after becoming aware of the event or the change in condition of the land, give the administering authority written notice of—
  - (a) the nature of the event or change in the condition; and
  - (b) the circumstances in which the event or change happened or is happening.

## **126 Replacement of s 321 (What is an environmental evaluation)**

Section 321—

*omit, insert—*

### **321 What is an environmental evaluation**

- (1) An environmental evaluation is an evaluation of an activity or event to decide—
  - (a) the source, cause or extent of environmental harm being caused, or the extent of environmental harm likely to be caused, by the activity or event; and
  - (b) the need for a transitional environmental program for the activity or event.
- (2) Also, an environmental evaluation is an evaluation of contaminated land to decide—
  - (a) the source, cause or extent of contamination of the land being caused, or likely to be caused; and
  - (b) the need for—
    - (i) a site management plan for the land; or
    - (ii) the land to be remediated; and

- 
- (c) the source, cause or extent of any contamination to the surrounding land, or to the environment, being caused, or likely to be caused, by the contamination of the land; and
  - (d) any environmental harm being caused, or likely to be caused, by the contamination of the land.

**127 Amendment of 326B (When environmental investigation required)**

Section 326B, heading, after ‘required’—

*insert—*

**—environmental harm**

**128 Insertion of new s 326BA**

After section 326B—

*insert—*

**326BA When environmental investigation required—contamination of land**

- (1) This section applies if the administering authority is satisfied that all of the following apply to land—
  - (a) particulars of the land are recorded in the environmental management register or contaminated land register;
  - (b) the hazardous contaminant contaminating the land is in a concentration that has the potential to cause serious environmental harm or material environmental harm;
  - (c) a person, animal or another part of the environment may be exposed to the hazardous contaminant, whether on the land or not.

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- (2) The administering authority may, by written notice (also an *investigation notice*), require a prescribed responsible person for the land to—
  - (a) conduct or commission an investigation (also an *environmental investigation*) about the contamination or potential contamination of the land; and
  - (b) give the administering authority a site investigation report for the land in accordance with sections 389 and 390.
- (3) The administering authority must not require an environmental investigation to be conducted or commissioned if—
  - (a) the land is subject to a site management plan for the contamination; and
  - (b) the conditions of the plan are being complied with.

## **129 Amendment of s 326C (Content of investigation notice)**

- (1) Section 326C(1), after ‘investigation notice’—

*insert—*

given under section 326B or 326BA
- (2) Section 326C(1)(c), before ‘that’—

*insert—*

for a notice given under section 326B—
- (3) Section 326C(1)—

*insert—*

  - (d) for a notice given under section 326BA—that the person must, within a stated reasonable period—
    - (i) conduct or commission the environmental investigation; and



- 
- (ii) give the administering authority a site investigation report for the land in accordance with sections 389 and 390.
- (4) Section 326C(2), ‘Also, an investigation notice’—  
*omit, insert—*

An investigation notice given under section 326B or 326BA

### 130 Insertion of new s 326DA

Chapter 7, part 2, division 3—

*insert—*

#### **326DA Procedure to be followed if recipient is not owner**

- (1) This section applies if the person (the *recipient*) to whom an investigation notice is given is not the land’s owner.
- (2) The recipient, or a person conducting the environmental investigation for the recipient (the *investigator*), may enter the land to conduct the investigation only—
  - (a) with the consent of the owner and occupier of the land; or
  - (b) if the recipient or investigator has given at least 5 business days written notice to the owner and occupier.
- (3) The notice must inform the owner and occupier of—
  - (a) the intention to enter the land; and
  - (b) the purpose of the entry; and
  - (c) the days and times when the land is to be entered.

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- (4) Nothing in this section authorises the recipient or investigator to enter a building used for residential purposes.
- (5) When conducting the environmental investigation, the recipient or investigator must take all reasonable steps to ensure the recipient or investigator causes as little inconvenience, and does as little damage, as is practicable in the circumstances.
- (6) If a person incurs loss or damage because of the environmental investigation, the person is entitled to be paid by the recipient or investigator reasonable compensation because of the loss or damage—
  - (a) as agreed between the recipient or investigator and the person; or
  - (b) if an agreement can not be reached—as decided by a court of competent jurisdiction.
- (7) The court may make the order about costs that the court considers just.

### **131 Amendment of s 358 (When order may be issued)**

Section 358(c)—

*omit, insert—*

- (c) if the authority is satisfied, because of an environmental evaluation conducted or commissioned by the person, unlawful environmental harm is being, or is likely to be, caused; or

### **132 Amendment of s 363F (Definitions for pt 5B)**

Section 363F, definition *contamination incident*—

*omit, insert—*

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***contamination incident*** means—

- (a) an incident involving contamination of the environment that the administering authority is satisfied has caused or is likely to cause serious or material environmental harm; or
- (b) the carrying out of an activity on contaminated land, the happening of an event on contaminated land, or a change in the condition of contaminated land that the administering authority is satisfied has caused or is likely to cause the land or any other land to become contaminated land; or
- (c) a combination of matters mentioned in paragraph (a) or (b).

**133 Amendment of s 363G (Who are the *prescribed persons* for a contamination incident)**

Section 363G—

*insert—*

- (ba) for a contamination incident mentioned in section 363F, definition *contamination incident*, paragraph (b)—a prescribed responsible person for the land to which the incident relates;

**134 Amendment of s 363M (Who are the *prescribed persons* for a contamination incident)**

Section 363M—

*insert—*

- (ba) for a contamination incident mentioned in section 363F, definition *contamination incident*, paragraph (b)—a prescribed responsible person for the land to which the incident relates;

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## 135 Replacement of ch 7, pt 8 (Contaminated land)

Chapter 7, part 8—

*omit, insert—*

### Part 8 Contaminated land

#### Division 1 Interpretation

##### 370 Definitions for pt 8

In this part—

***compliance permit*** means a compliance permit in the approved form under the Planning Act.

***relevant land*** means land for which particulars are recorded in a relevant land register.

***relevant land register*** means the environmental management register or contaminated land register.

***site investigation report***, for relevant land, means a report about an investigation of the land to scientifically assess whether the land is contaminated land.

***site management plan***, for relevant land, means a plan for managing the environmental harm that may be caused by the hazardous contaminant contaminating the land by applying conditions to the use or development of, or activities carried out on, the land.

***site suitability statement*** see section 389(2)(a).

***validation report***, for relevant land, means a report about work carried out to remediate the land.

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## **Division 2      Including land in relevant land register**

### **Subdivision 1   Preliminary**

#### **371 Grounds for including land in environmental management register**

The administering authority may record particulars of land in the environmental management register at any time if the authority is satisfied—

- (a) a notifiable activity has been, or is being, carried out on the land; or
- (b) the land is contaminated land.

#### **372 Grounds for including land in contaminated land register**

- (1) This section applies to land if particulars of the land are recorded in the environmental management register.
- (2) The administering authority may record particulars of the land in the contaminated land register at any time if the authority is satisfied—
  - (a) the land is contaminated land; and
  - (b) it is necessary to take action to remediate the land to prevent serious environmental harm.

## **Subdivision 2 Process for including land in relevant land register**

### **373 Application of sdiv 2**

This subdivision applies if the administering authority proposes to record particulars of land in a relevant land register.

### **374 Process for including land in relevant land register**

Particulars of land may be included in a relevant land register only if the process in this division is followed.

### **375 Show cause notice to be given to owner of land**

- (1) The administering authority must give the land's owner written notice (a *show cause notice*) about the proposal to include particulars of the land in a relevant land register.
- (2) The show cause notice must state the following—
  - (a) that the administering authority believes grounds exist for including particulars of the land in a relevant land register;
  - (b) the facts and circumstances relied on to support the grounds;
  - (c) that the owner may make a written submission to the authority about why particulars of the land should not be included in the relevant register;
  - (d) the day by which the owner may make the submission;

- (e) that the submission must be accompanied by a written declaration by the owner that the owner—
  - (i) has not knowingly included any false or misleading information in the submission; and
  - (ii) has given all relevant information to the authority.
- (3) For subsection (2)(d), the day must be at least 20 business days after the show cause notice is given to the owner.
- (4) Also, if an investigation of the land has been conducted and the administering authority holds a copy of a report prepared about the investigation, the show cause notice must be accompanied by a copy of the report.

### **376 Making and considering submission**

- (1) The land's owner may make a written submission to the administering authority by the day stated in the show cause notice.
- (2) The submission must be accompanied by—
  - (a) the declaration mentioned in section 375(2)(e); and
  - (b) if an investigation of the land has been conducted—a copy of the report prepared about the investigation mentioned in section 375(4).
- (3) The administering authority must consider a submission made by the owner under this section.

### **377 Decision about including land in relevant land register etc.**

- (1) If, after considering the submission, the administering authority still believes grounds exist to record particulars of the land in the relevant land register, the authority must record the particulars in the register.
- (2) If the administering authority records particulars of the land in the contaminated land register, the administering authority must remove the particulars of the land from the environmental management register.

### **378 Notice of decision about including land in relevant land register**

The administering authority must, within 5 business days after deciding whether to include particulars in the register, give an information notice about the decision to—

- (a) the land's owner; and
- (b) the relevant local government; and
- (c) if the decision is to record particulars of the land in the contaminated land register—any registered mortgagee of the land.

### **379 Notice to registrar of titles about including land in contaminated land register**

The administering authority must, within 5 business days after recording particulars of land in the contaminated land register, give written notice that the particulars have been recorded to the registrar of titles.



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### **Subdivision 3 Amending or removing particulars in relevant land register**

#### **380 Amending or removing particulars of land**

The administering authority may amend particulars of land recorded in a relevant land register, or remove particulars of land from a relevant land register, only under this subdivision.

#### **381 Site investigation report or validation report**

- (1) This section applies if the administering authority receives a site investigation report or validation report for the land that complies with division 3, subdivision 2.
- (2) The administering authority must—
  - (a) if the site suitability statement accompanying the site investigation report or validation report states the land is not contaminated land and is suitable for any use—remove particulars of the land from the relevant land register; or
  - (b) otherwise—amend the particulars of the land in the relevant land register to record the uses for which the land is suitable in accordance with the site suitability statement.

#### **382 Compliance permit**

- (1) This section applies if an auditor gives the administering authority a copy of a compliance permit for the land.
- (2) The administering authority must—

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- (a) if the compliance permit states the land is not contaminated land and is suitable for any use—remove particulars of the land from the relevant land register; or
- (b) otherwise—amend the particulars of the land in the relevant land register to record the uses for which the land is suitable in accordance with the compliance permit.

### **383 Site management plan**

- (1) This section applies if the administering authority—
  - (a) approves a draft site management plan for the land under division 3, subdivision 4; or
  - (b) prepares a draft site management plan for the land under division 3, subdivision 5; or
  - (c) amends or approves an amendment of a draft site management plan for the land.
- (2) The administering authority must include the details of the site management plan with the particulars of the land recorded in the relevant land register.

### **384 Minor amendment**

The administering authority may, on the authority's own initiative, amend particulars of the land recorded in the relevant land register if the amendment is a change that corrects only—

- (a) a clerical mistake in the particulars of the land; or
- (b) a spelling or grammatical error.

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**385 Notice to be given if particulars of land amended in or removed from register**

- (1) This section applies if the administering authority decides to—
  - (a) amend particulars of land in a relevant land register; or
  - (b) remove particulars of land from a relevant land register.
- (2) The administering authority must, within 5 business days after making the decision, give an information notice for the decision to each of the following persons—
  - (a) the land's owner;
  - (b) if a person other than the land's owner submitted a site investigation report, validation report or draft site management plan for the land—the other person;
  - (c) if the decision is to remove particulars of the land from the relevant land register—the relevant local government.
- (3) If section 381 applies, the notice must be accompanied by a copy of the site suitability statement that accompanied the site investigation report or validation report for the land.

**386 Notice to registrar of titles if particulars of land amended in or removed from contaminated land register**

- (1) This section applies if the administering authority decides to—
  - (a) amend particulars of land in the contaminated land register; or
  - (b) remove particulars of land from the contaminated land register.

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- (2) The administering authority must, within 5 business days after making the decision, give written notice of the decision to the registrar of titles.

## **Division 3 Contaminated land investigation documents**

### **Subdivision 1 Preliminary**

#### **387 Definition for div 3**

In this division—

*contaminated land investigation document*, for relevant land, means any of the following for the land—

- (a) a site investigation report;
- (b) a validation report;
- (c) a draft site management plan.

### **Subdivision 2 Content and submission of contaminated land investigation documents**

#### **388 Application of sdiv 2**

- (1) This subdivision applies if—
- (a) a site investigation report for relevant land is—
    - (i) required under the Planning Act to be attached to a compliance permit for the land; or

- (ii) required to be prepared under an investigation notice for the land; or
- (b) a validation report for relevant land is—
  - (i) required under the Planning Act to be attached to a compliance permit for the land; or
  - (ii) required to be prepared under a clean-up notice for the land; or
- (c) a draft site management plan is required to be prepared under section 391; or
- (d) a contaminated land investigation document is required to be prepared under a notice given or order made under this Act.

*Note—*

See section 565 about who may prepare a contaminated land investigation document.

- (2) Also, this subdivision applies if a person, at any time, voluntarily gives the administering authority a contaminated land investigation document for relevant land.

### **389 Content of contaminated land investigation document**

- (1) A contaminated land investigation document for relevant land must include the following information about the land—
  - (a) the reasons particulars of the land have been recorded in a relevant land register;
  - (b) a description of all surface and subsurface infrastructure on the land, including details of the location, size and type of the infrastructure;

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- (c) a description of the surrounding area of the land, including a description of each of the following in the surrounding area—
  - (i) all environmentally sensitive areas;
  - (ii) the location of all water, watercourses and wetlands;
  - (iii) the location of all stormwater drainage;
  - (iv) all uses of the land, including uses that may affect the safety of the relevant land or cause environmental harm;
  - (v) all activities carried out that may affect the safety of the relevant land or cause environmental harm;
- (d) for waste disposed of or stored on the land that contains, or may potentially contain, hazardous contaminants—
  - (i) details of the location, volume and type of the waste; and
  - (ii) details of any potential contamination of the land caused by disposing of or storing the waste on the land;
- (e) a description of the geology and hydrogeology of the land;
- (f) details of any environmentally relevant activities or notifiable activities carried out on the land, including the materials used and waste produced during the carrying out of the activities;
- (g) details of any earthworks carried out on the land, including the materials used and waste produced during the earthworks;
- (h) if work has been carried out on the land to remediate the contamination of the land—the contamination levels recorded on

- 
- the land before and after the work was carried out;
- (i) for a draft site management plan—
    - (i) the proposed objectives to be achieved and maintained under the plan; and
    - (ii) the proposed methods for achieving and maintaining the objectives; and
    - (iii) the proposed monitoring and reporting compliance measures for the land.
  - (2) Also, a contaminated land investigation document must include—
    - (a) a statement (a *site suitability statement*) of the uses or activities for which the land is suitable; and
    - (b) a statement of the following matters—
      - (i) whether the land is prescribed contaminated land;
      - (ii) if the land is contaminated—the extent to which the land is contaminated;
      - (iii) for a draft site management plan—whether the proposed objectives, methods and measures stated in the plan under subsection (1)(i) are appropriate;
      - (iv) the extent to which the assessment of the land is in accordance with the contaminated land NEPM.
  - (3) A contaminated land investigation document must be accompanied by a written certification (an *auditor's certification*) by an auditor verifying that the document complies with subsections (1) and (2).
  - (4) In this section—

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***contaminated land NEPM*** means the National Environment Protection (Assessment of Site Contamination) Measure, made by the National Environment Protection Council under the *National Environment Protection Council Act 1994* (Cwlth).

***environmentally sensitive area*** means an area prescribed by regulation as an environmentally sensitive area.

***prescribed contaminated land*** means land contaminated in a way that is a risk of causing environmental harm to—

- (a) land other than the relevant land; or
- (b) human health; or
- (c) another part of the environment.

***water*** has the meaning given under the *Water Act 2000*.

### **390 Requirements for submission of contaminated land investigation document**

- (1) This section applies if a person gives the administering authority a contaminated land investigation document.
- (2) The document must be accompanied by a declaration, made by the relevant person, that the person—
  - (a) has not knowingly given any false or misleading information to the auditor who certified the document; and
  - (b) has given all relevant information to the auditor; and
  - (c) if the person is not the land's owner—has given a copy of the document to the owner.
- (3) The ***relevant person*** is—



- (a) if the contaminated land investigation document is given to the administering authority in order to comply with a notice given to a person by the authority under this Act—the person to whom the notice was given; or
  - (b) otherwise—the person who gives the document to the administering authority.
- (4) However, if the person mentioned in subsection (3)(a) or (b) is a corporation, an executive officer of the corporation is taken to be the relevant person.
- (5) The contaminated land investigation document must also be accompanied by—
- (a) for a draft site management plan prepared by a person other than the land’s owner—a statement by the land’s owner agreeing to the draft plan; and
  - (b) the fee prescribed by regulation.

### **Subdivision 3 Preparation of draft site management plan**

#### **391 Show cause notice**

- (1) This section applies to relevant land only if the administering authority reasonably believes—
  - (a) the land is contaminated land; and
  - (b) the contamination may be managed by applying conditions to the use or development of, or activities carried out on, the land.
- (2) The administering authority may require a prescribed responsible person for the land to prepare or commission a draft site management

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- plan for the land and submit the draft plan to the authority, in accordance with subdivision 2.
- (3) Also, the administering authority may prepare a site management plan for the relevant land.
  - (4) Before taking action under subsection (2) or (3), the administering authority must give the prescribed responsible person a notice (a ***show cause notice***) inviting the person to show cause why the action should not be taken.
  - (5) A show cause notice must be in writing and state the following—
    - (a) that the administering authority proposes to—
      - (i) require the prescribed responsible person to prepare or commission a draft site management plan for the relevant land; or
      - (ii) prepare a site management plan for the relevant land;
    - (b) the facts and circumstances forming the basis for the administering authority's belief that—
      - (i) the land is contaminated land; and
      - (ii) the contamination may be managed by applying conditions to the use or development of, or activities carried out on, the land;
    - (c) that representations may be made about the proposed action;
    - (d) how the representations may be made;
    - (e) the period during which the representations must be made.
  - (6) For subsection (5)(e), the period must end at least 20 business days after the day the show cause

notice is given to the prescribed responsible person.

### **392 Making and consideration of submission**

- (1) The prescribed responsible person may, within the period stated in the show cause notice, make a written submission to the administering authority about why the action (the *proposed action*) stated in the show cause notice should not be taken.
- (2) The administering authority must consider a submission made by the prescribed responsible person under subsection (1).

### **393 Decision about taking action**

If, after complying with section 392(2), the administering authority still believes it is appropriate to take the proposed action, the authority may decide to take the action.

### **394 Notice of decision**

- (1) This section applies if the administering authority decides to require the prescribed responsible person for the land to prepare or commission a draft site management plan for the land.
- (2) The administering authority must give the prescribed responsible person a written notice that requires the person to prepare or commission a draft site management plan for the relevant land, and give the draft plan to the administering authority, in accordance with subdivision 2.
- (3) The notice must state—
  - (a) the grounds on which the notice is given; and

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- (b) the matters to be addressed by the draft site management plan for the land; and
  - (c) the day (at least a reasonable period after the notice is given) by which the draft plan must be prepared and given to the administering authority; and
  - (d) the review or appeal details.
- (4) If the prescribed responsible person is not the land's owner, the administering authority must also give a copy of the notice to the owner.

*Note—*

See section 565 about who may prepare a draft site management plan.

- (5) A prescribed responsible person for relevant land who receives a notice under this section must comply with the notice.

Maximum penalty for subsection (5)—300 penalty units.

### **395 Procedure to be followed if recipient is not owner**

- (1) This section applies if the prescribed responsible person who receives a notice under section 394 in relation to relevant land is not the land's owner.
- (2) The prescribed responsible person, or a person (a *consultant*) preparing the draft site management plan for the prescribed responsible person, may enter the land to prepare the draft plan—
  - (a) with the consent of the owner and occupier of the land; or
  - (b) if the prescribed responsible person or consultant has given the owner and occupier at least 5 business days written notice of the

person's or consultant's intention to enter the land.

- (3) The notice must state—
  - (a) the intention to enter the land; and
  - (b) the purpose of the entry; and
  - (c) the days and times when the land is to be entered.
- (4) Nothing in this section authorises the prescribed responsible person or consultant to enter a building used for residential purposes.
- (5) When preparing the draft site management plan, the prescribed responsible person or consultant must take all reasonable steps to ensure the person or consultant causes as little inconvenience, and does as little damage, as is practicable in the circumstances.
- (6) If a person (the *affected person*) incurs loss or damage because of the entry of the land by the prescribed responsible person or consultant to prepare a draft site management plan, the affected person is entitled to be paid by the prescribed responsible person or consultant reasonable compensation because of the loss or damage—
  - (a) that is agreed between the prescribed responsible person or consultant and the affected person; or
  - (b) if an agreement can not be reached—as decided by a court of competent jurisdiction.
- (7) For subsection (6)(b), the court may make the order about costs that the court considers just.

## **Subdivision 4 Consideration of draft site management plans**

### **396 Application of sdiv 4**

This subdivision applies if a draft site management plan for relevant land is given to the administering authority.

### **397 Requiring another site management plan or additional information**

- (1) This section applies if the administering authority is satisfied—
  - (a) a draft site management plan does not adequately address the matters stated in section 389; or
  - (b) the person (the *submitter*) who gave the draft plan to the authority did not comply with section 390; or
  - (c) the draft plan was not prepared by a suitably qualified person, as required by section 565.
- (2) The administering authority may require the submitter to—
  - (a) amend the draft site management plan; or
  - (b) prepare or commission another draft site management plan for the relevant land.
- (3) Also, the administering authority may require the submitter to—
  - (a) give the authority stated additional information about the draft site management plan; or
  - (b) verify, by statutory declaration—

- (i) stated information in the draft site management plan; or
  - (ii) additional information required under paragraph (a).
- (4) If the administering authority makes a requirement under this section, the authority must give the submitter an information notice about the decision to make the requirement.

### **398 Deciding whether to approve draft site management plan**

- (1) If section 397(2) does not apply, the administering authority must, within 20 business days after receiving a draft site management plan, decide whether to approve the draft plan.
- (2) The administering authority may decide to extend the period mentioned in subsection (1) if the authority—
  - (a) has made a requirement under section 397(3); or
  - (b) is satisfied special circumstances exist that justify extending the period.
- (3) The administering authority must give an information notice for the decision to—
  - (a) the submitter; and
  - (b) if the submitter is not the land's owner—the owner.
- (4) The information notice must be given before the end of whichever of the following happens last—
  - (a) the period mentioned in subsection (1); or
  - (b) if the period is extended under subsection (2)—the extended period.

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- (5) If the administering authority fails to decide whether to approve a draft site management plan within the period required under this section, the authority is taken to have refused to approve the draft plan at the end of the period.

### **399 Approval of draft site management plan**

- (1) This section applies if the administering authority decides to approve a draft site management plan for relevant land.
- (2) The administering authority must, within 5 business days after making the decision—
  - (a) record the details of the plan in the relevant land register in which particulars of the land are recorded; and
  - (b) give the submitter and the relevant local government, and, if the submitter is not the land's owner, the owner—
    - (i) a certificate of approval for the plan; and
    - (ii) written notice of the approval; and
    - (iii) a copy of the site suitability statement for the land that accompanied the plan.

### **400 Refusal to approve draft site management plan**

- (1) This section applies if the administering authority refuses to approve a draft site management plan for relevant land.
- (2) The administering authority must, within 5 business days after making the decision, give an information notice for the decision to—
  - (a) the submitter; and



- (b) if the submitter is not the land's owner—the owner.

## **Subdivision 5 Preparation of site management plan by administering authority**

### **401 Procedure if administering authority prepares site management plan**

- (1) This section applies if the administering authority prepares a site management plan for relevant land under section 391(3).
- (2) The administering authority must, within 5 business days after preparing the site management plan—
  - (a) record the details of the plan in the relevant land register in which particulars of the land are recorded; and
  - (b) give the land's owner and the relevant local government—
    - (i) written notice that the plan has been prepared; and
    - (ii) a copy of the site management plan, including the site suitability statement that accompanies the plan.
- (3) The notice must state—
  - (a) the reasons why the administering authority prepared the site management plan; and
  - (b) the review or appeal details.

## **Subdivision 6 Amendment of site management plan**

### **402 Voluntary amendment of site management plans**

- (1) This section applies if a person wants to amend a site management plan.
- (2) Subdivisions 2 to 4 apply—
  - (a) as if a reference in those subdivisions to a draft site management plan were a reference to a draft amendment of a site management plan; and
  - (b) with any other necessary changes.

### **403 Amendment of site management plan with written agreement**

The administering authority may, at any time, amend a site management plan for relevant land with the written agreement of—

- (a) the land's owner; and
- (b) if the owner is not the occupier of the land—the occupier of the land.

### **404 Amending or requiring amendment of site management plan**

- (1) If the administering authority considers it necessary or desirable, the administering authority may—
  - (a) prepare an amendment of a site management plan; or
  - (b) require a draft amendment of a site management plan to be prepared and given

to the administering authority for approval by—

- (i) the person who released the contaminant contaminating the land if the person is known and can be located; or
  - (ii) the relevant local government; or
  - (iii) the land's owner.
- (2) Subdivisions 2 to 5 apply for subsection (1)—
- (a) as if a reference in those subdivisions to a site management plan or draft site management plan were a reference to an amendment, or a draft amendment, of a site management plan; and
  - (b) with any other necessary changes.

## **Division 4      Miscellaneous provisions**

### **405 Registrar of titles to maintain records about contaminated land**

- (1) This section applies if the administering authority gives the registrar of titles written notice under section 379 or 386.
- (2) The registrar of titles must maintain records that show particulars of the land stated in the notice are recorded in the contaminated land register.
- (3) The registrar of titles must maintain the records in a way that a search of the register maintained by the registrar under any Act relating to the land will show that particulars of the land are recorded in the contaminated land register.
- (4) The registrar of titles must, on receiving the notice—

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- (a) if the notice is about the removal of land from the contaminated land register—remove the particulars of the land from the registrar’s records; or
- (b) if the notice is about a change to a record about land in the contaminated land register—make the appropriate change to the registrar’s records.

#### **406 Local government must not allow contravention of site management plan**

A local government must not, under an approval or other authority granted under the Planning Act or any other Act, allow the use or development of, or an activity to be carried out on, land in a way that contravenes a site management plan for the land the details of which are recorded in a relevant land register.

#### **407 Owner to give notice to occupant or proposed occupant**

- (1) This section applies if particulars of land are recorded in the contaminated land register.
- (2) If a lease is in effect in relation to the land when the particulars are recorded, the owner must, within 20 business days after the particulars are recorded, give the lessee notice that particulars of the land have been recorded in the register.

Maximum penalty—50 penalty units.

- (3) If, after the particulars are recorded, the land’s owner proposes to enter into a lease with another person, the owner must give notice about the recording of the particulars to the person before entering into the lease.

Maximum penalty—50 penalty units.

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- (4) If the owner does not give notice as required under subsection (2) or (3), the lessee or other person may terminate the lease by written notice given to the owner within 10 days after the person becomes aware of the recording of the particulars.
  - (5) Subsection (4) applies despite anything to the contrary in the lease.
  - (6) In this section—  
*lease* means an agreement between the land's owner and another person about occupancy of the land.

#### **408 Owner to give notice to proposed purchaser**

- (1) This section applies to the owner of land if—
  - (a) particulars of the land are recorded in a relevant land register; or
  - (b) the land is the subject of—
    - (i) a show cause notice under section 375; or
    - (ii) an environmental evaluation that includes a requirement to conduct or commission a site investigation; or
    - (iii) a clean-up notice that includes a requirement to provide a validation report; or
    - (iv) a notice under section 394; or
    - (v) a notice under section 401; or
  - (c) the land is the subject of an order under section 458.
- (2) The owner must, before agreeing to dispose of the land to someone else (the *buyer*), give written notice to the buyer stating—

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- (a) if subsection (1)(a) applies—that the particulars of the land have been recorded in a relevant land register and, if details of a site management plan for the land are recorded in the register, details of the plan; or
- (b) if subsection (1)(b) applies—that the owner has been given a notice mentioned in the subsection and particulars of the notice; or
- (c) if subsection (1)(c) applies—that the land is the subject of the order and particulars of the order.

Maximum penalty—50 penalty units.

- (3) If the owner does not comply with subsection (2), the buyer may rescind the agreement by giving the owner written notice before whichever of the following happens first—
  - (a) the completion of the agreement;
  - (b) possession under the agreement.
- (4) When the buyer rescinds the agreement under subsection (3)—
  - (a) a person who has been paid an amount by the buyer under the agreement must refund the amount to the buyer; and
  - (b) the buyer must return to the owner any documents about the disposal, other than the buyer's copy of the agreement.
- (5) However, if the owner does not comply with subsection (2), the owner may give the written notice after agreeing to dispose of the land if the notice also states—
  - (a) the matters mentioned in subsections (3) and (4); and

- 
- (b) that the buyer may act within 21 business days after receiving the notice.
  - (6) If the buyer does not rescind the agreement within 21 business days after receiving the notice, the buyer is taken to have waived their right to rescind the agreement.
  - (7) Subsections (3) to (6) apply despite anything to the contrary in the agreement.

**136 Amendment of s 520 (Dissatisfied person)**

- (1) Section 520(1)(m) and (n)—  
*omit.*
- (2) Section 520(1)(o)(i) and (iii), ‘413’—  
*omit, insert—*  
399
- (3) Section 520(1)(o)(ii), ‘, other than for a decision under section 407’—  
*omit.*

**137 Amendment of s 564 (Definitions for pt 3)**

- (1) Section 564, definition *regulatory function*, paragraph (a), ‘division 3’—  
*omit.*
- (2) Section 564, definition *regulatory function*, paragraph (b), ‘division 4’—  
*omit.*
- (3) Section 564, definition *regulatory function*, paragraph (c), ‘division 5’—  
*omit.*

[s 138]

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**138 Amendment of s 568 (Auditor's functions)**

Section 568(b)—

*omit, insert—*

- (b) prepare an auditor's certification for a contaminated land investigation document under chapter 7, part 8; and

**139 Insertion of new s 574BA**

After section 574B—

*insert—*

**574BA Administering authority may recover costs or expenses**

- (1) This section applies if a person asks the administering authority to perform an auditor's function mentioned in section 568.
- (2) The administering authority may recover from the person the authority's reasonable costs or expenses in performing the function.

**140 Insertion of new ch 13, pt 23, div 3**

Chapter 13, part 23—

*insert—*



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## **Division 3      Transitional provisions for amendments commencing by proclamation**

### **Subdivision 1    General amendments**

#### **727 Applicant may elect for particular application to be dealt with as standard application or variation application**

- (1) This section applies to an application for an environmental authority—
  - (a) that relates to a coordinated project; and
  - (b) made, but not decided, before the commencement; and
  - (c) that, if it had been made on or after the commencement, would be—
    - (i) a standard application; or
    - (ii) a variation application.
- (2) The applicant may elect, by written notice given to the administering authority—
  - (a) to have an application to which subsection (1)(c)(i) applies treated as a standard application; or
  - (b) to have an application to which subsection (1)(c)(ii) applies treated as a variation application.

#### **728 Applicant may elect for particular requirements to apply to particular application**

- (1) This section applies to an application for an environmental authority that relates to a

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coordinated project if, before the commencement—

- (a) the Coordinator-General has evaluated an EIS for each relevant activity the subject of the application and there are Coordinator-General's conditions that relate to each relevant activity; and
  - (b) the application has not been decided.
- (2) The applicant may elect, by giving written notice to the administering authority, for section 125(3) to apply to the application.

### **729 Applicant may elect for particular requirements to apply to site-specific applications—CSG activities**

- (1) This section applies to an application for an environmental authority that relates to a coordinated project if, before the commencement—
- (a) the Coordinator-General has evaluated an EIS for each relevant activity the subject of the application and there are Coordinator-General's conditions that relate to each relevant activity; and
  - (b) the application has not been decided.
- (2) The applicant may elect, by giving written notice to the administering authority, for section 126(3) to apply to the application.

### **730 Conditions that must be imposed on particular applications**

Section 205 applies to the standard application or variation application to which section 729 applies.

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## **Subdivision 2 Amendments related to replacement of former chapter 7, part 8**

### **731 Definition for sdiv 2**

In this subdivision—

*former chapter 7, part 8* means chapter 7, part 8 of the Act as in force immediately before the amendment of the part under the amending Act.

### **732 Continuing effect of registration of land**

- (1) Land that, immediately before the commencement, was recorded in the environmental management register under former chapter 7, part 8 continues to be recorded in the environmental management register as if it were recorded under chapter 7, part 8.
- (2) Land that, immediately before the commencement, was recorded in the contaminated land register under former chapter 7, part 8 continues to be recorded in the contaminated land register as if it were recorded under chapter 7, part 8.
- (3) Any conditions on the use or management of land recorded in the environmental management register or the contaminated land register under former chapter 7, part 8 continue to apply to the land mentioned in subsections (1) and (2).

### **733 Provision for land recorded under repealed Act**

- (1) This section applies to land the particulars of which were recorded under the *Contaminated Land Act 1991*, as in force immediately before its

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repeal, in the contaminated sites register under that Act as being a confirmed site, restricted site or probable site.

- (2) The particulars of the land are taken to have been recorded in the environmental management register or contaminated land register on the date that the particulars were recorded in the contaminated sites register.

### **734 Continuing effect of notices given under former chapter 7, part 8**

A notice given under former chapter 7, part 8 continues to have effect as if former chapter 7, part 8 was still in force.

### **735 Continuing effect of site management plan made under former chapter 7, part 8**

A site management plan made under former chapter 7, part 8 continues to have effect as if the plan were a site management plan under chapter 7, part 8.

### **736 Particular existing applications**

- (1) This section applies to any of the following applications made under the unamended Act but not decided before the commencement—
  - (a) an application to waive a requirement to conduct or commission a site investigation made under former section 378;
  - (b) an application to waive a requirement to remediate contaminated land made under former section 392;
  - (c) an application to waive a requirement to prepare or commission a site management

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plan for contaminated land made under former section 407.

- (2) On the commencement, the application lapses.

### **737 Applications for approval of draft site management plans**

- (1) This section applies to an application for approval of a draft site management plan made under former section 404 but not decided before the commencement.
- (2) The administering authority must decide the application as if former chapter 7, part 8 was still in force.

### **738 Notice to purchaser**

- (1) This section applies if, before the commencement—
  - (a) the owner of land (the *seller*) to which former section 421 applies has entered into an agreement to dispose of the land to someone else (the *buyer*); and
  - (b) the seller has not given the buyer a notice under former section 421(2).
- (2) The seller may give a notice under section 408(5).
- (3) Section 408(6) and (7) apply to the buyer and the seller.

### **739 Disposal permits**

Sections 424 and 425, as in force immediately before this section commences, continue to apply until the day prescribed by regulation.

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**141 Amendment of sch 2 (Original decisions)**

- (1) Schedule 2, part 1, division 5, entry for section 326C(1)(c)—  
*omit, insert—*

326C(1)(d) fixing of period for conducting or commissioning  
environmental investigation and giving site investigation  
report

- (2) Schedule 2, part 2, division 4, entry for section 326C(1)(c)—  
*omit, insert—*

326C(1)(d) fixing of period for conducting or commissioning  
environmental investigation and giving site investigation  
report

- (3) Schedule 2, part 2, division 4—  
*insert—*

326BA(2) decision to give investigation notice

- (4) Schedule 2, part 2, division 4, entries for sections 374(1) to  
424(3) and (4)—  
*omit, insert—*

377(1) decision to include particulars of land in environmental  
management register or contaminated land register

381(2) decision to remove particulars of land in environmental  
management register or contaminated land register

381(2) decision to amend particulars of land in environmental  
management register or contaminated land register

- 
- |           |   |
|-----------|---|
| 382(2)    | decision to remove particulars of land in environmental management register or contaminated land register |
| 382(2)    | decision to amend particulars of land in environmental management register or contaminated land register  |
| 393       | requirement for preparation or commission of draft site management plan                                   |
| 393       | decision to prepare site management plan  |
| 397(2)    | requirement for amendment of draft site management plan   |
| 397(2)    | requirement for preparation or commission of another draft site management plan                           |
| 398(2)    | extension of time for approval of draft site management plan  |
| 404(1)(a) | decision to prepare amendment of site management plan   |
| 404(1)(b) | requirement to prepare draft amendment of site management plan  |

- (5) Schedule 2, part 2—

*insert—*

## **Division 6A      Decision under chapter 10**

<b>Section</b>	<b>Description of decision</b>
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- |        |   |
|--------|---|
| 512(5) | decision to amend or suspend an enforceable undertaking |
|--------|---|

### **142      Amendment of sch 4 (Dictionary)**

- (1) Schedule 4, definitions *disposal permit, preliminary investigation, relevant area, remediation notice, residual risks requirement, show cause notice, site investigation report, site management plan, submitter, validation report—*  
*omit.*

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(2) Schedule 4—

*insert—*

***auditor's certification*** see section 389.

***compliance permit***, for chapter 7, part 8, see section 370.

***contaminated land investigation document***, for relevant land, for chapter 7, part 8, division 3, see section 387.

***prescribed responsible person***, for chapter 7—

1 Each of the following persons is a *prescribed responsible person* for land—

- (a) if a person released a hazardous contaminant contaminating the land and the person is known and can be located—the person;
- (b) the relevant local government;
- (c) if subparagraph (a) or (b) does not apply—the owner of the land in relation to whom either of the following applies—
  - (i) when the owner acquired the land particulars of the land were recorded in the environmental management register or the contaminated land register;
  - (ii) the land became contaminated after the owner acquired the land.

2 Despite paragraph 1(b), a local government is a prescribed responsible person for land only if—

- (a) the administering authority reasonably believes—



- 
- (i) the land became contaminated because the local government gave approval for the use of, or an activity to be carried out on, the land; and
  - (ii) in giving the approval, the local government did not comply with the requirements under any Act in relation to the approval; and
  - (iii) the local government ought reasonably to have known that giving the approval would result in the land becoming contaminated; or
- (b) both of the following apply—
- (i) the local government gave approval for the use of, or an activity on, the land inconsistent with the particulars recorded for the land in the environmental management register or the contaminated land register;
  - (ii) the use or activity has caused environmental harm.

3 A mortgagee who is the owner of land is not an owner for paragraph 1(c).

*relevant area*, for chapter 5, part 10, division 6—see section 271(2).

*relevant land*, for chapter 7, part 8, see section 370.

*relevant land register*, for chapter 7, part 8, see section 370.

*residual risks requirement*, for chapter 5, part 10, division 6—see section 271(3).

*show cause notice*—

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- (a) for chapter 7, part 8, division 2, subdivision 2—see section 375(1); or
- (b) for chapter 7, part 8, division 2, subdivision 2—see section 391; or
- (c) for chapter 12, part 3A, division 4, see section 574E(1).

**site investigation report**, for relevant land, for chapter 7, part 8, see section 370.

**site management plan**, for relevant land, for chapter 7, part 8, see section 370.

**site suitability statement**, for relevant land, for chapter 7, part 8, see section 389(2)(a).

**submitter**—

- (a) for an application, means an entity who makes a properly made submission about the application; or
- (b) for chapter 7, part 8, division 3, subdivision 4, see section 397.

**validation report**, for chapter 7, part 8, see section 370.

- (3) Schedule 4, definition *environmental investigation*, after ‘section 326B(2)(a)’—

*insert*—

or 326BA(2)

- (4) Schedule 4, definition *investigation notice*, after ‘section 326B(2)’—

*insert*—

or 326BA(2)

- (5) Schedule 4, definition *recipient*, paragraph (e)—

*omit*.

- (6) Schedule 4, definition *registrar*, ‘**registrar** means’—

*omit, insert—*

*registrar of titles* means

## **Part 6**   **Amendment of Nature Conservation Act 1992**

### **143 Act amended**

This part amends the *Nature Conservation Act 1992*.

### **144 Insertion of new pt 5, div 10**

Part 5—

*insert—*

#### **Division 10   Statements of management intent**

##### **100K Local government's statement of management intent**

- (1) This section applies if a local government is lawfully dealing with protected wildlife in the local government area, other than under a wildlife authority.
- (2) The Minister may, by written notice, require the local government to prepare and publish a statement of management intent for the protected wildlife, within a reasonable period stated in the notice.
- (3) The notice may require that the statement of management intent include stated information.
- (4) The local government must, within the stated period—

[s 144A]

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- (a) prepare a statement of management intent for the protected wildlife; and
  - (b) publish the statement on the local government's website.
- (5) The statement of management intent must include—
- (a) any information required under subsection (3); and
  - (b) any information prescribed by regulation.
- (6) In this section—
- statement of management intent*, for protected wildlife, means a statement about the local government's proposed management intent for the protected wildlife.

## Part 6A                      Amendment of Sustainable Planning Act 2009

### 144A Act amended

This part amends the *Sustainable Planning Act 2009*.

### 144B Amendment of s 970 (Continued effect to make payment)

Section 970—

*insert—*

- (3) However, a payment made in relation to an offset condition imposed by a department is to be made to the offset account under that Act instead of to an environmental offset trust.

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**Part 7**                      **Amendment of Waste  
Reduction and Recycling Act  
2011**

**Division 1**                **Preliminary**

**145**    **Act amended**

This part amends the *Waste Reduction and Recycling Act 2011*.

**Division 2**                **Amendments commencing on  
assent**

**146**    **Amendment of s 5 (Approach to achieving Act's objects)**

(1) Section 5(e), after 'products'—

*insert—*

or priority waste

(2) Section 5(f), 'priority product statement'—

*omit, insert—*

priority statement

**147**    **Amendment of s 15 (What may be included in State's  
waste management strategy)**

Section 15(2)(g), after 'products'—

*insert—*

or priority waste

[s 148]

---

**148 Amendment of ch 4, hdg (Management of priority and other products)**

Chapter 4, heading, ‘and other products’—

*omit, insert—*

**products and priority waste**

**149 Replacement of s 74 (Purpose of chapter)**

Section 74—

*omit, insert—*

**74 Purpose of chapter**

The purpose of this chapter is—

- (a) to encourage, and in particular circumstances to require, persons who are involved in the life cycle of a product to share responsibility for—
  - (i) ensuring that, for the product, there is effective waste avoidance, reduction, re-use, recycling, recovery or treatment; and
  - (ii) managing the impacts of the product throughout its life cycle, including end-of-use management; and
- (b) otherwise—to improve the management of waste that is not a product.

**150 Insertion of new s 74A**

Chapter 4, part 1—

*insert—*

**74A Definitions for ch 4**

In this chapter—

***producer***, of a product, includes any of the following—

- (a) the manufacturer of the product;
- (b) a person who imports the product into Queensland;
- (c) a person who supplies the product in Queensland;
- (d) a person who has a legal or equitable interest in the name under which the product is supplied in Queensland.

**151 Amendment of ch 4, pt 2, hdg (Priority products)**

Chapter 4, part 2, heading, after ‘products’—

*insert—*

**and priority waste**

**152 Amendment of s 75 (Preparation and notification of draft priority product statement)**

(1) Section 75, heading, ‘priority product statement’—

*omit, insert—*

**priority statement**

(2) Section 75(1)(a)—

*omit, insert—*

(a) prepare a draft priority statement for—

- (i) 1 or more products; or
- (ii) 1 or more categories of waste; and

(3) Section 75(2)(a), ‘priority product statement’—

*omit, insert—*

**priority statement**

[s 153]

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**153 Amendment of s 76 (Requirements for draft priority product statement)**

(1) Section 76, heading, ‘priority product statement’—

*omit, insert—*

**priority statement**

(2) Section 76(1) and (2)—

*omit, insert—*

(1) The draft priority statement must state—

- (a) the products or category of waste intended to be included in the final statement as priority products or priority waste; and
- (b) how each proposed product or the proposed category of waste satisfies the criteria under section 77; and
- (c) the management options under consideration for each proposed product or the proposed category of waste, including, for example, a product stewardship scheme, a disposal ban under part 4 or a strategic waste planning option.

(2) In deciding whether to include a product or category of waste in the draft priority statement, the chief executive must consider—

- (a) whether the product or category of waste satisfies the criteria under section 77; and
- (b) whether action is proposed or is currently in progress for the product or category of waste through a national approach; and
- (c) whether there are significant benefits from taking action to reduce impacts from disposal of the product or category of waste.

(3) Section 76(4), ‘priority product statement’—

*omit, insert—*



---

priority statement

**154 Replacement of s 77 (What are the priority product criteria for a product)**

Section 77—

*omit, insert—*

**77 Criteria for a priority product or priority waste**

A product or category of waste satisfies the criteria for a priority product or priority waste if at least 2 of the following apply to the product or category of waste—

- (a) the product or category of waste contains hazardous or toxic substances;
- (b) there is potential to reduce the consumption of resources through improved management of the product or category of waste;
- (c) there is potential to reduce the environmental impacts of the disposal of the product or category of waste through improved management of the product or category of waste;

*Examples of environmental impacts—*

greenhouse gas emissions from landfill,  
occurrence of leachates

- (d) there is potential to reduce the social impacts of the disposal of the product or category of waste through improved management of the product or waste;

*Examples of social impacts—*

danger to waste management workers, community concern, amenity

- (e) treating or disposing of the product or category of waste involves a significant cost to the community;

[s 155]

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- (f) improved management of the product or category of waste is likely to create business opportunities that would contribute to the economy.

**155 Amendment of s 78 (Inclusion of invitation for voluntary product stewardship scheme)**

Section 78(1), 'priority product statement'—

*omit, insert*—

priority statement

**156 Amendment of s 79 (Finalisation of priority product statement)**

Section 79, 'priority product statement'—

*omit, insert*—

priority statement

**157 Amendment of s 80 (Approval of final priority product statement)**

Section 80, 'priority product statement'—

*omit, insert*—

priority statement

**158 Amendment of s 81 (Minor amendment of priority product statement)**

Section 81, 'priority product statement'—

*omit, insert*—

priority statement

**159 Amendment of s 82 (Review of priority product statement)**

Section 82, ‘priority product statement’—

*omit, insert—*

priority statement

**160 Amendment of s 90 (Requirements for accreditation)**

Section 90(1)(m), ‘priority product statement’—

*omit, insert—*

priority statement

**161 Amendment of s 91 (Accreditation)**

Section 91(g), ‘priority product statement’—

*omit, insert—*

priority statement

**162 Amendment of s 98 (Regulation about product stewardship)**

Section 98(3)(b), ‘priority product statement’—

*omit, insert—*

priority statement

**163 Amendment of s 266 (Protection of officials from liability)**

(1) Section 266—

*insert—*

(2A) This section does not apply to an official if the official is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

(2) Section 266(3), definition *official*—

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---

*omit, insert—*

***official*** means any of the following persons—

- (a) the Minister;
- (b) an authorised person;
- (c) a person acting under the direction of—
  - (i) a person mentioned in paragraph (a) or (b); or
  - (ii) the chief executive.

(3) Section 266(2A) and (3)—

*renumber* as section 266(3) and (4).

## **164 Amendment of schedule (Dictionary)**

(1) Schedule, definitions *priority product statement*, *producer* and *product*—

*omit.*

(2) Schedule—

*insert—*

***priority statement*** means the document approved and gazetted as the priority statement under chapter 4, part 2.

***priority waste*** means a category of waste stated to be a priority waste under the priority statement as currently in force.

***producer***, for chapter 4, see section 74A.

***product***—

- (a) means a product that has reached the end of its useful life; and
- (b) includes a product that has not been used and any packaging for the product.

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## **Division 3                      Amendments commencing by    proclamation**

### **165      Amendment of s 5 (Approach to achieving Act's objects)**

Section 5(i)—

*omit, insert—*

- (i) making end of waste codes and granting end of waste approvals;

### **166      Amendment of s 76 (Requirements for draft priority    statement)**

Section 76(1)(c), from 'or' to 'option'—

*omit, insert—*

, a strategic waste planning option, an end of waste code or an end of waste approval

### **167      Replacement of ch 8 (Approval of resource for beneficial    use)**

Chapter 8—

*omit, insert—*

## **Chapter 8      Provisions for end of    waste**

### **Part 1                      Preliminary**

#### **155 Purpose of chapter**

- (1) The purpose of this chapter is to provide for the process by which the chief executive decides when and how waste stops being waste and becomes a resource.

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- (2) Waste stops being a waste and becomes a *resource* when—
- (a) a registered resource producer manages the waste in accordance with an end of waste code; or
  - (b) a holder of an end of waste approval manages the waste in accordance with the approval.

### **156 Definitions for ch 8**

In this chapter—

*amend*, an end of waste approval, includes—

- (a) amending or removing a condition imposed on the approval; and
- (b) imposing a new condition on the approval; and
- (c) amending the period of the approval.

*end of waste approval* see section 159(2).

*end of waste code* see section 159(1).

*material environmental harm* see the Environmental Protection Act, section 16.

*registered resource producer* means a person who is registered for an end of waste code under section 173B.

*resource* see section 155.

*serious environmental harm* see the Environmental Protection Act, section 17.

*technical advisory panel* see section 173G.

### **157 Effect of operating under end of waste code if unregistered**

- (1) This section applies if—

- (a) a person sells or gives away a resource under an end of waste code; and
  - (b) the person is not a registered resource producer for the code.
- (2) The resource is taken to be waste until the person becomes a registered resource producer for the code.

### **158 Compliance with end of waste code**

A registered resource producer for an end of waste code must not sell or give away the resource for the code unless the registered resource producer complies with the requirements of the end of waste code relating to the resource.

Maximum penalty—1665 penalty units.

### **159 Chief executive may make end of waste codes and grant end of waste approvals**

- (1) The chief executive may make a code (an *end of waste code*) for registered resource producers that states when a particular waste stops being a waste and becomes a resource.
- (2) The chief executive may grant an approval (an *end of waste approval*) to a person that states when a particular waste stops being a waste and becomes a resource.

## **Part 2                      End of waste codes**

### **Division 1                Process for making end of waste codes**

#### **160 Public notice inviting submissions about potential end of waste codes**

- (1) The chief executive must, by notice given at least once every year, invite the public to make a submission about whether there is any particular waste or resource for which an end of waste code should be prepared.
- (2) The notice must—
  - (a) state—
    - (i) that a person may make a submission to the chief executive about any particular waste or resource for which an end of waste code should be prepared; and
    - (ii) the period, of at least 28 days, (the *submission period*) during which the submissions may be made; and
    - (iii) how to make a submission; and
  - (b) be published on the department's website.
- (3) A submission made under this section must be in the approved form.

#### **161 Consideration of submissions**

The chief executive must consider all submissions made during the submission period before deciding whether or not to make a draft end of waste code for a particular waste or resource.



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## **162 Preparation of end of waste code by technical advisory panel**

- (1) Subsection (2) applies if the chief executive decides to prepare a draft end of waste code (the *draft code*).
- (2) The chief executive must establish a technical advisory panel under section 173G to prepare the draft code unless, after having regard to the matters mentioned in section 163(1), the chief executive is satisfied it is unnecessary for a technical advisory panel to prepare the draft code.
- (3) If the chief executive establishes a technical advisory panel to prepare the draft code—
  - (a) the chief executive may require the panel to include particular requirements in the draft code; and
  - (b) the panel must prepare and give the chief executive the draft code within 6 months after being established.
- (4) However, the technical advisory panel may, after having regard to the matters mentioned in section 163(1) but within 2 months of being established, decide that the draft code should not be prepared.
- (5) If the technical advisory panel decides that the draft code should not be prepared, it must give the chief executive written notice of the decision, including the panel's reasons for the decision.

## **163 Matters to be considered in preparing end of waste code**

- (1) In preparing a draft end of waste code, the chief executive or a technical advisory panel must have regard to the following matters—
  - (a) the objects of this Act;

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- (b) the proposed use of a particular resource under the proposed end of waste code;
  - (c) whether the proposed use of a particular resource may, or is likely to, cause any serious environmental harm or material environmental harm;
  - (d) the waste and resource management hierarchy;
  - (e) any other matter prescribed by regulation.
- (2) This section does not limit the matters the chief executive or a technical advisory panel may consider in preparing a draft end of waste code.

#### **164 End of waste code prepared by technical advisory panel**

- (1) This section applies if a technical advisory panel prepares a draft end of waste code (the *draft code*).
- (2) Subsection (3) applies if the chief executive is satisfied a technical advisory panel has not—
  - (a) had regard to a matter mentioned in section 163; or
  - (b) included a requirement in the draft code that the chief executive required the panel to include in the draft code.
- (3) The chief executive may—
  - (a) ask the technical advisory panel to amend the draft code; or
  - (b) refuse to accept the draft code.
- (4) The chief executive may amend the draft code before publishing it under section 166.

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## **Division 2      Making end of waste codes**

### **165 Publication of draft end of waste code**

- (1) Before the chief executive decides to make an end of waste code, the chief executive must publish the following on the department's website—
  - (a) a copy of the draft end of waste code; and
  - (b) a notice stating—
    - (i) that a person may make a submission to the chief executive about the draft end of waste code; and
    - (ii) the period, of at least 28 days (the *consultation period*), during which the submission may be made; and
    - (iii) how to make a submission.
- (2) The chief executive must ensure the draft end of waste code and notice continue to be available from the department's website throughout the consultation period.
- (3) The chief executive must consider all submissions made under subsection (1) before deciding whether or not to make the end of waste code.

### **166 Notice of making end of waste code**

- (1) If the chief executive decides to make an end of waste code, the chief executive must notify the making of an end of waste code by gazette notice.
- (2) The gazette notice must state—
  - (a) the name of the end of waste code; and
  - (b) the date the end of waste code was made; and

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- (c) where a copy of the end of waste code may be inspected.
- (3) The end of waste code takes effect on the later of the following—
  - (a) the day the gazette notice is published;
  - (b) the day stated in the gazette notice for that purpose;
  - (c) the day stated in the end of waste code for that purpose.

### **Division 3            Amendment, cancellation                                  or suspension of end of                                  waste codes**

#### **167 Amendment of end of waste code**

The chief executive may, on the chief executive's own initiative, amend an end of waste code.

#### **168 Application for amendment of end of waste code**

- (1) A person may apply to the chief executive to amend an end of waste code (an *amendment application*).
- (2) An amendment application must—
  - (a) be in the approved form; and
  - (b) include the information prescribed by regulation; and
  - (c) be accompanied by the fee prescribed by regulation.

### **169 Refusal of application**

If the chief executive decides to refuse to grant an amendment application, the chief executive must, within 10 business days after making the decision, give the applicant an information notice for the decision.

### **170 Chief executive may require additional information or documents for amendment application**

- (1) The chief executive may, by notice, require an applicant give the chief executive further information or documents the chief executive reasonably requires to decide the application about an amendment application within a reasonable period stated in the notice (the *stated period*).
- (2) The chief executive and the applicant may, before the stated period ends, agree to extend the period.
- (3) The application is taken to be withdrawn if the applicant does not comply with the requirement within the stated period.

### **171 Cancellation or suspension of end of waste code**

The chief executive may cancel or suspend an end of waste code if the chief executive is satisfied—

- (a) there is no longer a use for a particular resource under the code; or
- (b) the end of waste code was made on the basis of a miscalculation of—
  - (i) the characteristics of the resource; and
  - (ii) the potential of the resource to cause serious environmental harm, or

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- material environmental harm, because of those characteristics; or
- (c) the use of particular waste or a particular resource is unlawful; or
- (d) it is necessary or desirable to do so having regard to the objects of the Act.

### **172 Procedure for amending, cancelling or suspending end of waste code**

- (1) This section applies if the chief executive proposes—
  - (a) to amend an end of waste code; or
  - (b) to cancel or suspend an end of waste code.
- (2) The chief executive must—
  - (a) give notice of the proposed action to each registered resource producer for the end of waste code; and
  - (b) publish a notice of the proposed action—
    - (i) on the department’s website; and
    - (ii) in any other way the chief executive considers appropriate.
- (3) A notice under subsection (2) must state the following—
  - (a) the action the chief executive proposes to take;
  - (b) if the proposed action is an amendment of an end of waste code—the proposed amendment;
  - (c) if the proposed action is suspension—the proposed period of the suspension;
  - (d) the reasons for the proposed action;

- (e) the facts and circumstances that form the basis for the reasons;
  - (f) for a notice given to a registered resource producer—that the registered resource producer may, within a stated period, make a written submission to the chief executive about the proposed action;
  - (g) for a notice published under subsection (2)(b)—that any person may, within a stated period, make a written submission to the chief executive about the proposed action.
- (4) The stated period must not end before 28 days after whichever of the following happens last—
- (a) the day the notice is given to the registered resource producer under subsection (2)(a);
  - (b) the day the notice is published under subsection (2)(b).
- (5) The chief executive may decide whether or not to take the proposed action after considering—
- (a) all submissions made under subsection (3) within the stated period; and
  - (b) if the proposed action is an amendment of an end of waste code—
    - (i) the effect of the amendment on the use of a particular resource; and
    - (ii) whether the effect of the amendment on the use of a particular resource is likely to cause any serious environmental harm or material environmental harm; and
    - (iii) the waste and resource management hierarchy; and

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- (iv) any advice, information or comment provided by any technical advisory panel; and
- (c) another matter prescribed by regulation.
- (6) If the chief executive decides to take the proposed action, the chief executive must give each registered resource producer for the end of waste code an information notice for the decision within 10 business days after making the decision.
- (7) The decision takes effect for a registered resource producer on the later of the following days—
  - (a) the day the information notice is given to the registered resource producer;
  - (b) a later day stated in the information notice for that purpose.

### **173 Publication of amended end of waste code**

If the chief executive amends an end of waste code under section 172, the chief executive must publish a copy of the amended end of waste code—

- (a) on the department's website; and
- (b) in any other way the chief executive considers appropriate.

### **173A Minor amendment of end of waste code**

- (1) The chief executive may make a minor amendment of an end of waste code by publishing a notice of the amendment—
  - (a) on the department's website; and
  - (b) in any other way the chief executive considers appropriate.



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- (2) The chief executive may make the minor amendment to the end of waste code—
    - (a) on the chief executive's own initiative; or
    - (b) on an application made under section 168 for a minor amendment of an end of waste code.
  - (3) This section applies despite section 172.
  - (4) In this section—

***minor amendment***, of an end of waste code, means an amendment of the code—

    - (a) to correct a minor or formal error in the code; or
    - (b) to make another change that is not a change of substance and does not adversely affect the interests of a registered resource producer or a person who is likely to receive a resource from the registered resource producer.

## **Division 4            Registration of end of waste resource producers**

### **173B Registration of end of waste resource producers**

- (1) A person becomes a registered resource producer for an end of waste code by giving the chief executive a notice that the person intends to become a registered resource producer for the code.
- (2) The notice must—
  - (a) be in the approved form; and
  - (b) include the information prescribed by regulation; and

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- (c) be accompanied by the fee prescribed by regulation.

### **173C Cancellation or suspension of registration**

- (1) The chief executive may cancel or suspend a registered resource producer's registration if the chief executive reasonably believes the registered resource producer has failed to comply with a requirement of an end of waste code.
- (2) The chief executive may act under subsection (1) regardless of whether the chief executive has given the registered resource producer a show cause notice under chapter 11.

### **173D Procedure for cancelling or suspending registration**

- (1) Before cancelling or suspending a registered resource producer's registration under section 173C, the chief executive must give the person a notice stating the following—
  - (a) the action the chief executive proposes to take;
  - (b) if the proposed action is suspension—the period of the suspension;
  - (c) the reasons for the proposed action;
  - (d) the facts and circumstances that form the basis for the reasons;
  - (e) that the person may, within a stated period, make a written submission to the chief executive about why the proposed action should not be taken.
- (2) For subsection (1)(e), the stated period must not end less than 28 days after the registered resource producer is given the notice.

- (3) The chief executive must consider any submissions made under subsection (1).
- (4) If the chief executive decides to take the proposed action, the chief executive must, within 5 business days after making the decision, give the registered resource producer an information notice for the decision.
- (5) The decision takes effect the day the information notice is given to the registered resource producer.

### **173E Particular circumstances when end of waste approval lapses**

- (1) This section applies if the holder of an end of waste approval relating to a particular waste or resource becomes a registered resource producer for an end of waste code for the same waste or resource.
- (2) The person's end of waste approval lapses.

### **173F Register of registered resource producers**

- (1) The chief executive must maintain a register of registered resource producers for each end of waste code.
- (2) The register may be kept in electronic form.

## **Division 5            Miscellaneous**

### **173G Technical advisory panels**

- (1) The chief executive may establish a panel (a *technical advisory panel*)—
  - (a) to—

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- (i) consider matters relating to the development of a draft end of waste code; and
  - (ii) if necessary, prepare a draft end of waste code; or
- (b) to consider and provide advice, information or comment about—
  - (i) a draft end of waste code prepared by the chief executive; or
  - (ii) an amendment of an end of waste code.
- (2) A regulation may prescribe matters for a technical advisory panel, including, but not limited to, the following matters—
  - (a) the terms of reference for the panel;
  - (b) the appointment of members of the panel;
  - (c) the composition of the panel membership;
  - (d) the resignation of members of the panel;
  - (e) the disclosure of interests of members of the panel;
  - (f) the termination of appointment of members of the panel.

**173H Chief executive may seek advice, comment or information about pt 2**

- (1) The chief executive may ask any entity for advice, comment or information about the operation of this part, including, for example, the operation of an end of waste code.
- (2) There is no particular way advice, comment or information must be asked for and received and the request may be by public notice.

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## Part 3                      End of waste approvals

### Division 1                Grant of end of waste approvals

#### 173I Application

- (1) A person may apply to the chief executive for an end of waste approval for 1 kind of waste to be used as a resource.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) include the information prescribed by regulation; and
  - (c) be accompanied by a written report, in the approved form, prepared by a suitably qualified person about the application; and
  - (d) be accompanied by the fee prescribed by regulation.
- (3) A regulation may prescribe matters relating to the preparation of a written report about an application.
- (4) In this section—

***suitably qualified person***, in relation to a written report, means a person who—

  - (a) has the qualifications and experience appropriate for preparing the report; and
  - (b) meets the criteria, if any, prescribed by regulation.

### **173J Chief executive may require additional information or documents**

- (1) The chief executive may, by notice given within 20 business days after receiving the application, require the applicant to give the chief executive further information or documents the chief executive reasonably requires to decide the application within a reasonable period stated in the notice (the *stated period*).
- (2) The chief executive and the applicant may, before the stated period ends, agree to extend the period.
- (3) The application is taken to be withdrawn if the applicant does not comply with the requirement within the stated period.

### **173K Deciding application**

- (1) The chief executive must decide to grant or refuse to grant the application within 20 business days after the later of the following days (the *decision period*)—
  - (a) the day the chief executive receives the application;
  - (b) if further information or documents are requested under section 173J—the day the chief executive receives the information or documents.
- (2) However, the chief executive may extend the decision period by giving the applicant, within 20 business days after the end of the decision period, a notice that the chief executive has extended the decision period.
- (3) The extension must not be more than 20 business days.
- (4) Only 1 extension may be made under subsection (2).

- (5) A failure to make a decision under this section is taken to be a decision to refuse to grant the application.

### **173L Criteria for deciding application**

- (1) In deciding whether to grant or refuse to grant the application, the chief executive must consider the following—
- (a) the objectives of this Act;
  - (b) the waste and resource management hierarchy;
  - (c) whether the proposed management of a particular waste or the use of a particular resource is likely to cause any serious environmental harm or material environmental harm;
  - (d) whether it is reasonably practicable for an end of waste code to be made for the particular waste or resource the subject of the application;
  - (e) another matter prescribed by regulation.
- (2) This section does not limit the matters the chief executive may consider in making the decision.

### **173M Grant of application**

- (1) If the chief executive decides to grant the application, the chief executive must, within 5 business days after making the decision, give the applicant a notice stating the following—
- (a) that the end of waste approval has been granted;
  - (b) the particular waste or resource to which the approval relates;

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- (c) the person to whom the approval is granted;
  - (d) when the approval ends;
  - (e) any conditions imposed on the approval;
  - (f) if conditions are imposed on the approval—the reasons for the conditions.
- (2) If the chief executive imposes any conditions on the end of waste approval, the notice must include or be accompanied by an information notice for the decision to impose the conditions.

### **173N Conditions of end of waste approval**

- (1) The chief executive may impose the conditions on an end of waste approval the chief executive considers are necessary or desirable.
- (2) However, the conditions may only impose an obligation on the holder of the approval and must not impose an obligation on a user of the resource.
- (3) A regulation may prescribe the types of conditions that may be imposed by the chief executive under subsection (1).

### **173O Refusal of application**

If the chief executive decides to refuse to grant the application, the chief executive must, within 10 business days of making the decision, give the applicant an information notice for the decision.

### **173P Compliance with condition of end of waste approval**

- (1) This section applies to a person who is the holder of, or is acting under, an end of waste approval.



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- (2) The person must comply with the conditions of the approval.

Maximum penalty—1665 penalty units.

*Note—*

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 268, to have also committed the offence.

### **173Q Extending end of waste approval**

- (1) A person may apply to the chief executive, on one occasion, to extend an end of waste approval.
- (2) The application must be made in the approved form, not less than 1 month before the approval ends.
- (3) In deciding whether to grant or refuse to grant the application, the chief executive must consider—
- (a) the matters mentioned in section 173L(1); and
  - (b) whether the waste, and resource, to which the approval relates would be more appropriately managed as a waste management ERA.

## **Division 2            Transfer or amendment of                                  end of waste approvals on                                  application**

### **173R Definitions for div 2**

In this division—

*amendment application* see section 173S(1)(a).

*transfer application* see section 173S(1)(b).

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### **173S Application for transfer or amendment of end of waste approval**

- (1) The holder of an end of waste approval may apply to the chief executive to—
  - (a) amend the approval (an *amendment application*); or
  - (b) transfer the approval to another person (a *transfer application*).
- (2) The amendment application must—
  - (a) be in the approved form; and
  - (b) include the information prescribed by regulation; and
  - (c) be accompanied by a written report about the application prepared, in the approved form, by a suitably qualified person; and
  - (d) be accompanied by the fee prescribed by regulation.
- (3) The transfer application must—
  - (a) be in the approved form; and
  - (b) include the information prescribed by regulation; and
  - (c) be accompanied by the signed consent of the proposed transferee; and
  - (d) be accompanied by the fee prescribed by regulation.
- (4) A regulation may prescribe matters relating to the preparation of a written report about an amendment application.
- (5) In this section—

*suitably qualified person*, in relation to a written report about an amendment application, means a person who—

- (a) has the qualifications and experience appropriate for preparing the report; and
- (b) meets the criteria, if any, prescribed by regulation.

### **173T Chief executive may require additional information or documents for amendment application**

- (1) The chief executive may, by notice, require an applicant give the chief executive further information or documents the chief executive reasonably requires to decide an amendment application within a reasonable period stated in the notice (the *stated period*).
- (2) The chief executive and the applicant may agree to extend the stated period for giving the information or documents.
- (3) The application is taken to be withdrawn if the applicant does not comply with the requirement within the stated period.

### **173U Decision on amendment application**

- (1) In deciding whether or not to grant an amendment application, the chief executive must consider—
  - (a) the effect of the amendment on the management of a particular waste or the use of a particular resource; and
  - (b) whether the effect of the amendment on the management of a particular waste or the use of a particular resource may, or is likely to, cause any serious environmental harm or material environmental harm; and
  - (c) the waste and resource management hierarchy; and

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- (d) any other matter prescribed by regulation.
- (2) The chief executive must decide to grant or refuse to grant the application within 10 business days after the later of the following days (the *decision period*)—
  - (a) the day the chief executive receives the application;
  - (b) if additional information or documents are requested under section 173T—the day the chief executive receives the information.
- (3) However, the chief executive may, by written notice given to the applicant before the end of the decision period, extend the period mentioned in subsection (2) by no more than 20 business days.
- (4) Only 1 extension may be made under subsection (3).
- (5) If the chief executive decides to grant the application, the chief executive must, within 5 business days of making the decision, give the applicant a notice stating—
  - (a) that the application has been granted; and
  - (b) any new conditions imposed on the approval; and
  - (c) any existing conditions amended for the approval; and
  - (d) the day the amendment takes effect.
- (6) If the chief executive decides to refuse to grant the application, the chief executive must, within 10 business days of making the decision, give the applicant an information notice for the decision.
- (7) A failure to make a decision under subsection (2) is taken to be a decision to refuse the application.

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### **173V Decision on transfer application**

- (1) The chief executive must consider a transfer application and decide to—
  - (a) approve the transfer; or
  - (b) refuse the transfer.
- (2) The decision must be made within 10 business days after the transfer application is received (the *decision period*).
- (3) However, the chief executive may, by written notice given to the applicant before the end of the decision period, extend the period by no more than 20 business days.
- (4) Only 1 extension may be made under subsection (3).
- (5) If the chief executive decides to refuse to grant the application, the chief executive must, within 10 business days of making the decision, give the applicant an information notice for the decision.

## **Division 3            Amendment, cancellation                                  or suspension of end of                                  waste approval**

### **173W Amendment of end of waste approval**

The chief executive may, on the chief executive's own initiative, amend an end of waste approval.

### **173X Cancellation or suspension of an end of waste approval**

- (1) The chief executive may cancel or suspend an end of waste approval if the chief executive is satisfied—

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- (a) there is no longer a use, or likely to be a future use, for a particular resource under the approval; or
  - (b) the management of a particular waste or the use of a particular resource under the approval has caused, or is likely to cause, serious or material environmental harm that is unlawful under the Environmental Protection Act, section 493A; or
  - (c) the use of particular waste or a particular resource is unlawful; or
  - (d) the approval was granted because of a materially false or misleading representation or declaration; or
  - (e) the approval was granted on the basis of particular matters or information that have changed and the change is likely to cause material environmental harm or serious environmental harm; or
  - (f) a condition imposed on the approval has not been complied with; or
  - (g) a request for information about the approval under section 173ZB has not been complied with.
- (2) The chief executive may also cancel an end of waste approval if—
- (a) an end of waste code for the particular resource to which the end of waste approval relates is in effect; and
  - (b) the chief executive reasonably believes the holder of the end of waste approval may operate under the end of waste code.

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**173Y Procedure for amending, cancelling or suspending end of waste approval**

- (1) This section applies if the chief executive proposes to—
  - (a) amend an end of waste approval; or
  - (b) cancel or suspend an end of waste approval.
- (2) The chief executive must give notice of the proposed action to the holder of the approval.
- (3) The notice must state the following—
  - (a) the action the chief executive proposes to take;
  - (b) if the proposed action is an amendment—the proposed amendment;
  - (c) if the proposed action is suspension—the period of the suspension;
  - (d) the grounds for the proposed action;
  - (e) the facts and circumstances that form the basis for the grounds;
  - (f) that the holder of the approval may, within a stated period, make a written submission to the chief executive about why the proposed action should not be taken.
- (4) The stated period must not end less than 28 days after the holder of the end of waste approval is given the notice.
- (5) The chief executive must decide whether or not to take the proposed action within 20 business days after the end of the stated period.
- (6) However, the chief executive may, by written notice given to the applicant before the end of the stated period, extend the stated period mentioned in subsection (5) by no more than 20 business days.

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- (7) Only 1 extension may be made under subsection (6).
- (8) In deciding whether or not to take the proposed action, the chief executive must consider the following—
  - (a) all submissions made by the holder of the end of waste approval within the stated period;
  - (b) if the proposed action is an amendment—
    - (i) the effect of the amendment on the management of a particular waste or the use of a particular resource; and
    - (ii) whether the effect of the amendment on the management of a particular waste or the use of a particular resource is likely to cause any serious environmental harm or material environmental harm; and
    - (iii) the waste and resource management hierarchy;
  - (c) another matter prescribed by regulation.
- (9) If the chief executive decides to take the proposed action, the chief executive must, within 10 business days after making the decision, give the holder of the end of waste approval an information notice for the decision.
- (10) The decision takes effect on the later of the following days—
  - (a) the day the information notice is given to the holder of the end of waste approval;
  - (b) a later day stated in the information notice for that purpose.



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### **173Z Minor amendment of end of waste approval**

- (1) The chief executive may make a minor amendment of an end of waste approval by giving notice of the amendment to the holder of the approval.
- (2) This section applies despite section 173Y.
- (3) In this section—  
*minor amendment*, of an end of waste approval, means an amendment of the approval—
  - (a) to correct a minor or formal error in the approval; or
  - (b) to make another change that is not a change of substance and does not adversely affect the interests of the holder of the approval or a person who is likely to receive a resource from the holder.

## **Division 4 Surrender of end of waste approval**

### **173ZA Surrendering end of waste approval**

The holder of an end of waste approval may surrender the approval by giving the chief executive written notice of the surrender.

## **Division 5 Miscellaneous**

### **173ZB Chief executive may request relevant information about end of waste approval**

- (1) The chief executive, by notice given to the holder of an end of waste approval, may require the holder to give the chief executive information about the approval.

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- (2) The notice must—
- (a) be in the approved form; and
  - (b) state the information required; and
  - (c) state the period within which the information is to be given to the chief executive; and
  - (d) state why the information is required.

**173ZC Chief executive may seek advice, comment or information about pt 3**

The chief executive may ask any entity for advice, comment or information about the operation of this part at any time.

**168 Amendment of s 245 (Definitions for ch 11)**

- (1) Section 245, definition *prescribed provision*, paragraph (a), ‘44(3), 52(1)’—

*omit, insert—*

44(2), 52(2)

- (2) Section 245, definition *prescribed provision*, paragraph (a), ‘167’—

*omit, insert—*

158, 173P

**169 Amendment of s 268 (Executive officer may be taken to have committed offence)**

Section 268(4), definition *deemed executive liability provision*, second dot point—

*omit, insert—*

- section 158
- section 173P

**170 Replacement of ch 16 (Repeal and amendment of other legislation)**

Chapter 16—

*omit, insert—*

**Chapter 16 Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2014**

**302 Definitions for ch 16**

In this chapter—

*amending Act* means the *Environmental Protection and Other Legislation Amendment Act 2014*.

*former Act* means this Act as in force immediately before the commencement.

*general approval* means a general approval under the former Act.

*specific approval* means a specific approval under the former Act.

**303 Existing general approvals**

- (1) This section applies to a general approval that was in force immediately before the commencement.
- (2) The general approval continues in force for its term provided for under the former Act.

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- (3) Despite the replacement of chapter 8 under the amending Act, the following provisions as in force under the former Act continue to apply for the general approval—
  - (a) chapter 8, part 5;
  - (b) chapter 8, part 6, division 2 to the extent it provides for the cancellation or suspension of an approval;
  - (c) chapters 9, 10, 11 and 14 to the extent they relate to a general approval.
- (4) Subsection (5) applies if—
  - (a) an end of waste code is made; and
  - (b) the end of waste code relates to a particular waste or resource to which the general approval relates.
- (5) The general approval ends on the later of the following days—
  - (a) the day before the end of waste code takes effect;
  - (b) a later day fixed by the chief executive for that purpose by notice published on the department's website.
- (6) A person who is registered under a general approval that ends is taken to be a registered resource producer from the day on which the approval ends.
- (7) Section 158 does not apply to a person who was carrying out an activity in accordance with a general approval that ends until 1 year after the general approval ends.
- (8) However, subsection (3) continues to apply as if the general approval has not ended under subsection (5).

### **304 Existing specific approvals**

- (1) This section applies if, immediately before the commencement, a person was the holder of a specific approval under the former Act.
- (2) Despite the replacement of chapter 8 under the amending Act, chapter 8, part 5 of the former Act continues to apply to the specific approval.
- (3) From the commencement, the specific approval is taken to be an end of waste approval for the particular resource or waste to which the specific approval relates.

### **305 Existing applications**

- (1) This section applies to any of the following applications made under the former Act but not decided before the commencement—
  - (a) an application for a general approval or specific approval;
  - (b) an application for an amendment or transfer of a general approval or specific approval.
- (2) On the commencement, the application lapses.

### **306 Existing show cause procedure**

- (1) This section applies if, before the commencement—
  - (a) the chief executive gave a person operating under a general approval, or the holder of a specific approval, a show cause notice under the former Act, section 246; and
  - (b) the chief executive had not decided whether or not to give the person a compliance notice.

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- (2) The chief executive must decide under the former Act whether or not to give the person a compliance notice.

## 171 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *amend*, *approval*, *best practice environmental management*, *disqualifying event*, *environmental nuisance*, *general approval*, *holder*, *resource* and *specific approval*—

*omit.*

- (2) Schedule—

*insert—*

***amend***, an end of waste approval, for chapter 8, see section 156.

***amendment application***, for chapter 8, part 3, division 2, see section 173S(1)(a).

***business days*** does not include a business day that occurs during the period starting on 20 December in a year and ending on 5 January in the following year.

***end of waste approval***, for chapter 8, see section 159.

***end of waste code***, for chapter 8, see section 159.

***registered resource producer***, for an end of waste code, for chapter 8, see section 156.

***resource***, for chapter 8, see section 155.

***technical advisory panel***, for chapter 8, part 2, see section 173G.

***transfer application***, for chapter 8, part 3, division 2, see section 173S(1)(b).

- (3) Schedule, definitions *material environmental harm* and *serious environmental harm*, '155'—

*omit, insert—*

156

## **Part 8**                      **Amendment of Wet Tropics World Heritage Protection and Management Act 1993**

### **172 Act amended**

This part amends the *Wet Tropics World Heritage Protection and Management Act 1993*.

### **173 Amendment of s 34 (Protection from liability)**

Section 34—

*insert—*

- (4) This section does not apply to a person if the person is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

## **Part 9**                      **Consequential and minor amendments**

### **174 Acts amended in sch 1**

Schedule 1 amends the Acts it mentions.

## **Schedule 1      Consequential and minor amendments**

section 174

### **Biological Control Act 1987**

**1      Section 9(2) and (3), ‘authority’—**

*omit, insert—*

Authority

### **Environmental Protection Act 1994**

**1      Section 320D(1), ‘320B(2)’—**

*omit, insert—*

320B(3)

**2      Section 326E(3), definition *recipient*, ‘or 326B(2)’—**

*omit, insert—*

, 326B(2) or 326BA(2)

**3      Section 326F(4), definition *recipient*, after ‘326B(2)’—**

*insert—*

or 326BA(2)

**4      Section 326G(9), definition *recipient*, after ‘326B(2)’—**

*insert—*

or 326BA(2)



**5 Section 326H(2), definition *recipient*, ‘or 326B(2)’—**

*omit, insert—*

, 326B(2) or 326BA(2)

**6 Section 326I(7), definition *recipient*, after ‘326B(2)’—**

*insert—*

or 326BA(2)

## **Vegetation Management Act 1999**

**1 Section 22DAC(2), definition *eligible owner*, paragraph (f)—**

*omit, insert—*

- (f) is a registered resource producer, or holds an end of waste approval, under the *Waste Reduction and Recycling Act 2011*, chapter 8 and the resource to which the code or approval relates is water; or

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