

# **Environmental Protection (Greentape Reduction) and Other Legislation Amendment Bill 2012**

## **Explanatory Notes for Amendments To Be Moved During Consideration In Detail By The Honourable Andrew Powell MP**

### **Title of the Bill**

Environmental Protection (Greentape Reduction) and Other Legislation Amendment Bill 2012

### **Objectives of the Amendments**

The proposed amendments are necessary to ensure that the amendments in the Bill meet the policy intent of the provisions.

### **Achievement of the Objectives**

The amendments are needed to ensure the effective operation of the amendments.

### **Alternative Ways of Achieving Policy Objectives**

Legislative amendments are the only means of achieving the policy objectives.

### **Estimated Cost for Government Implementation**

The amendments do not change the estimated cost for government implementation.

### **Consistency with Fundamental Legislative Principles**

Any potential breaches of fundamental legislative principles have been addressed as part of the Notes on Provisions.

No potential breaches of fundamental legislative principles have been identified for the remainder of the amendments in this Bill.

## **Consultation**

## **Government**

Department of Premier and Cabinet and the Office of the Queensland Parliamentary Counsel have been consulted on the amendments.

## **Community and Industry**

These amendments are primarily made as a result of the report from the Agriculture, Resources and Environment Committee (the AREC report), which considered submissions from the community and industry.

# **Notes On Provisions**

## **Clause 1**

## **Clause 8 (Insertion of new chs 5 and 5A)**

This clause amends clause 8 of the Bill which inserts new chapters 5 and 5A. This amendment relates to section 156 (Publication of application notice and documents on website) and amends the access period so that sections 156 and 157 require publication for the same period of time.

In addition, as a result of submissions to the AREC by the Environmental Defender's Office, this section is amended so that information provided to the department as a result of an information request is also to be published on the applicant's website.

## **Clause 2**

## **Clause 8 (Insertion of new chs 5 and 5A)**

This clause amends clause 8 of the Bill which inserts new chapters 5 and 5A. This amendment relates to section 157 (Public access to application) and makes amendments consequential to the amendments to section 156. In addition, the definition of 'access period' in subsection (b)(iii) was not updated when the submission period was changed from 10 business days to 20 business days. This clause also makes that change.

**Clause 3**                      **Clause 8 (Insertion of new chs 5 and 5A)**

This clause amends clause 8 of the Bill which inserts new chapters 5 and 5A. This amendment relates to section 158 (Declaration of compliance) and corrects an incorrect cross-reference.

**Clause 4**                      **Clause 8 (Insertion of new chs 5 and 5A)**

This clause amends clause 8 of the Bill which inserts new chapters 5 and 5A. This amendment relates to section 213 (Amendment of environmental authorities to reflect new standard conditions) and deletes an incorrect cross-reference to section 200 as well as correcting the terminology of the section to refer to “the amendment of the environmental authority”, rather than “the amended environmental authority”.

**Clause 5**                      **Clause 8 (Insertion of new chs 5 and 5A)**

This clause amends clause 8 of the Bill which inserts new chapters 5 and 5A. This amendment relates to section 233 (Public notice of amendment application) and corrects an incorrect cross-reference.

**Clause 6**                      **Clause 8 (Insertion of new chs 5 and 5A)**

This clause amends clause 8 of the Bill which inserts new chapters 5 and 5A. This amendment relates to section 234 (Submission period) and corrects an incorrect cross-reference.

**Clause 7**                      **Clause 8 (Insertion of new chs 5 and 5A)**

This clause amends clause 8 of the Bill which inserts new chapters 5 and 5A. This amendment relates to section 259 (When surrender notice ceases to have effect) and corrects an incorrect cross-reference.

**Clause 8**                      **Clause 8 (Insertion of new chs 5 and 5A)**

This clause amends clause 8 of the Bill which inserts new chapters 5 and 5A. This amendment relates to section 318D (Making standard conditions). Section 540A states that the register of standard conditions must be kept by the chief executive, but this section stated that the administering authority must keep standard conditions on its website. This section is amended to refer to the department, since standard conditions are

not made by local governments who may also be an administering authority.

**Clause 9**                      **Clause 8 (Insertion of new chs 5 and 5A)**

This clause amends clause 8 of the Bill which inserts new chapters 5 and 5A. This amendment relates to section 318E (Codes of practice). Section 540A states that the register of codes of practice must be kept by the chief executive, but this section stated that the administering authority must keep codes of practice on its website. This section is amended to refer to the department, since codes of practice are not made by local governments who may also be an administering authority.

**Clause 10**                      **Clause 8 (Insertion of new chs 5 and 5A)**

This clause amends clause 8 of the Bill which inserts new chapters 5 and 5A. This amendment relates to section 318J (When registration takes effect) and amends the section to be about the term of registration. The AREC report sought the Minister's clarification as to what action would be taken to ensure the continued suitability of operators is monitored at appropriate intervals, and that mechanisms will be put in place for the monitoring of environmental offences by operators.

As part of the government's response, this section is amended to allow the administering authority to remove an operator from the register if the operator has not held an environmental authority for the preceding 5 years.

**Clause 11**                      **Clause 60 (Insertion of new ch 13, pt 18)**

This clause amends clause 60 of the Bill which inserts transitional provisions for the Bill. This amendment relates to section 677 (Continuing effect of existing development permit for chapter 4 activity as environmental authority). Subsection (4) states that the anniversary day for the environmental authority is the anniversary of the day the development permit was given. This was not correct as the anniversary day attached to the registration certificate. This amendment corrects that error.

**Clause 12**                      **Clause 61 (Amendment of sch 2 (Original decisions))**

This clause amends clause 61 of the Bill which amended the list of original decisions for the *Environmental Protection Act 1994*. This schedule is

what makes a decision appealable. This amendment corrects an incorrect cross-reference.

**Clause 13**                      **Clause 61 (Amendment of sch 2 (Original decisions))**

This clause amends clause 61 of the Bill which amended the list of original decisions for the *Environmental Protection Act 1994*. This schedule is what makes a decision appealable. This amendment corrects an incorrect cross-reference.

**Clause 14**                      **Clause 61 (Amendment of sch 2 (Original decisions))**

This clause amends clause 61 of the Bill which amended the list of original decisions for the *Environmental Protection Act 1994*. This schedule is what makes a decision appealable. This amendment inserts a missing cross-reference.

**Clause 15**                      **Clause 62 (Amendment of sch 4 (Dictionary))**

This clause amends clause 62 of the Bill which amended the Dictionary of the *Environmental Protection Act 1994* to delete, replace, amend and insert definitions as a result of the changes in the Bill. This amendment omits the definition of “business days”, as a consequence of it being replaced by clause 17 of these amendments.

**Clause 16**                      **Clause 62 (Amendment of sch 4 (Dictionary))**

This clause amends clause 62 of the Bill which amended the Dictionary of the *Environmental Protection Act 1994* to delete, replace, amend and insert definitions as a result of the changes in the Bill. This amendment relates to the definition of “amending Act” and corrects an incorrect cross-reference.

**Clause 17**                      **Clause 62 (Amendment of sch 4 (Dictionary))**

This clause amends clause 62 of the Bill which amended the Dictionary of the *Environmental Protection Act 1994* to delete, replace, amend and insert

definitions as a result of the changes in the Bill. This amendment inserts a definition of “business days” which replaces the previous definition of “business days”. Recommendation 2 of the AREC report recommended that proposed sections 154 and 155 in Clause 8 be amended to ensure that business days between and including 20 December in one year and 5 January in the following year are excluded from the notification period for submissions. The purpose of this recommended amendment is to ensure that individuals and community groups are afforded reasonable opportunities to adequately respond to applications for large mining and other resource projects.

This is consistent with the definition of ‘business days’ in section 39 of the *Environmental Protection Act 1994* for Environmental Impact Statements.

**Clause 18                      Clause 62 (Amendment of sch 4  
(Dictionary))**

This clause amends clause 62 of the Bill which amended the Dictionary of the *Environmental Protection Act 1994* to delete, replace, amend and insert definitions as a result of the changes in the Bill. This amendment relates to the definition of “minor change” and removed a duplicate definition.

**Clause 19                      Clause 62 (Amendment of sch 4  
(Dictionary))**

This clause amends clause 62 of the Bill which amended the Dictionary of the *Environmental Protection Act 1994* to delete, replace, amend and insert definitions as a result of the changes in the Bill. This amendment relates to the definition of “person”. The amendment is necessary because the definition of “person” is usually restricted to corporate entities (e.g. Pty Ltd corporations) or individuals by the *Acts Interpretation Act 1954* unless the *Environmental Protection Act 1994* states otherwise. The definition of ‘person’ was extended in this definition to include a body of persons, whether incorporated or unincorporated (e.g. a local government), but only in limited circumstances. This definition needed to be extended to all applications for environmental authorities and all dealings with environmental authorities. It also needs to apply to registrations of suitable operators.

**Clause 20  
(Dictionary)**

**Clause 62 (Amendment of sch 4**

This clause amends clause 62 of the Bill which amended the Dictionary of the *Environmental Protection Act 1994* to delete, replace, amend and insert definitions as a result of the changes in the Bill. This amendment changes the definition of “submitter” from a person, to an entity. This is because section 160 in the new chapter 5 of the Bill states that an entity may make a submission and the definition of “entity” is broader than the definition of “person”. Without amendment, the definition of “submitter” would create an internal inconsistency in the Act.

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