

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, November 2016*



Queensland

**No.
A BILL for**

An Act to amend the Environmental Protection Act 1994, the Queensland Heritage Act 1992, the Water Act 2000 and the Water Reform and Other Legislation Amendment Act 2014 for particular purposes



Queensland

Environmental Protection (Underground Water Management) and Other Legislation Amendment Bill 2016

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Amendment Bill 2016

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2016

A Bill

for

An Act to amend the *Environmental Protection Act 1994*, the *Queensland Heritage Act 1992*, the *Water Act 2000* and the *Water Reform and Other Legislation Amendment Act 2014* for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Environmental Protection (Underground Water Management) and Other Legislation Amendment Act 2016*.

2 Commencement

- (1) The following provisions commence immediately after the commencement of the *Water Reform and Other Legislation Amendment Act 2014*, section 11—
 - part 2, heading
 - sections 3 to 8
 - section 10, other than to the extent it inserts new part 26 heading and new section 749
 - part 4.
- (2) Part 3 commences on a day to be fixed by proclamation.

Part 2 Amendment of Environmental Protection Act 1994

3 Act amended

This part amends the *Environmental Protection Act 1994*.

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

Section 112—

insert—

underground water rights means any of the following—

- (a) underground water rights within the meaning of the *Mineral Resources Act 1989*;
- (b) underground water rights within the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*;
- (c) underground water rights within the meaning of the *Petroleum Act 1923*, section 87(3).

5 Insertion of new s 126A

After section 126—

insert—

126A Requirements for site-specific applications—particular resource projects and resource activities

- (1) This section applies to a site-specific application, involving the exercise of underground water rights, for—
 - (a) a resource project that includes a resource tenure that is a mineral development licence, mining lease or petroleum lease; or
 - (b) a resource activity for which the relevant tenure is a mineral development licence, mining lease or petroleum lease.
- (2) The application must also state the following—
 - (a) any proposed exercise of underground water rights during the period in which resource activities will be carried out under the relevant tenure;

- (b) the areas in which underground water rights are proposed to be exercised;
- (c) for each aquifer affected, or likely to be affected, by the exercise of underground water rights—
 - (i) a description of the aquifer; and
 - (ii) an analysis of the movement of underground water to and from the aquifer, including how the aquifer interacts with other aquifers and surface water; and
 - (iii) a description of the area of the aquifer where the water level is predicted to decline because of the exercise of underground water rights; and
 - (iv) the predicted quantities of water to be taken or interfered with because of the exercise of underground water rights during the period in which resource activities are carried out;
- (d) the environmental values that will, or may, be affected by the exercise of underground water rights and the nature and extent of the impacts on the environmental values;
- (e) any impacts on the quality of groundwater that will, or may, happen because of the exercise of underground water rights during or after the period in which resource activities are carried out;
- (f) strategies for avoiding, mitigating or managing the predicted impacts on the environmental values stated for paragraph (d) or the impacts on the quality of groundwater mentioned in paragraph (e).

6 Amendment of s 207 (Conditions that may be imposed)

Section 207(1)—

insert—

- (g) relate to the exercise of underground water rights.

7 Amendment of s 215 (Other amendments)

(1) Section 215(2)—

insert—

- (pa) for an environmental authority for a resource activity—an underground water impact report under the *Water Act 2000*, chapter 3, identifies impacts, or potential impacts, on an environmental value;

(2) Section 215(3), after ‘(2)(c)’—

insert—

- or (d)

8 Insertion of new s 227AA

Chapter 5, part 7, division 2, after section 227—

insert—

227AA Requirements for amendment applications—underground water rights

(1) This section applies for an amendment application if—

- (a) the application relates to a site-specific environmental authority for—

- (i) a resource project that includes a resource tenure that is a mineral development licence, mining lease or petroleum lease; or

[s 9]

- (ii) a resource activity for which the relevant tenure is a mineral development licence, mining lease or petroleum lease; and
- (b) the proposed amendment involves changes to the exercise of underground water rights.
- (2) The application must also state the matters mentioned in section 126A(2).
- (3) In this section—

site-specific environmental authority means an environmental authority that includes 1 or more ineligible ERAs.

9 Amendment of s 683 (Effect of commencement on particular applications)

Section 683(2)—

insert—

Note—

See, however, section 749.

10 Insertion of new ch 13, pt 26

Chapter 13—

insert—

Part 26

Transitional provisions for Environmental Protection (Underground Water Management) and Other Legislation Amendment Act 2016

748 Particular applications made but not decided before commencement

- (1) This section applies if—
 - (a) an application of a type mentioned in section 126A or 227AA was made before the commencement; and
 - (b) immediately before the commencement, the application had not been decided.
- (2) The application must be dealt with and decided as if the *Environmental Protection (Underground Water Management) and Other Legislation Amendment Act 2016* had not commenced.

749 Administering authority to make decision on s 683 applications

- (1) This section applies to an application of a type mentioned in section 683(1)(a) or (b) that was made, but not decided, before the commencement of that section.
- (2) If, before the commencement of this section, the EPA Minister had not made a decision under former section 225 and former section 225 would have applied to the application, section 683(2) continues to apply to the application but the administering authority and not the EPA Minister must make the decision under former section 225.
- (3) In this section—

EPA Minister means the Minister administering this Act.

former section 225 means section 225 as in force immediately before the commencement of the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*, section 7.

Part 3 Amendment of Queensland Heritage Act 1992

11 Act amended

This part amends the *Queensland Heritage Act 1992*.

12 Amendment of s 125 (Appointment and qualifications)

(1) Section 125(1), after ‘may’—

insert—

, by instrument in writing,

(2) Section 125(2) and (3)—

omit, insert—

(2) The chief executive officer of a local government may, by instrument in writing, appoint a local government employee of the local government as an authorised person.

(3) However, the administering executive may appoint a person as an authorised person only if the administering executive is satisfied the person is appropriately qualified for appointment.

(4) In this section—

local government employee means—

(a) a local government employee under the *Local Government Act 2009*; or

(b) a council employee under the *City of Brisbane Act 2010*.

13 Amendment of s 126 (Functions of authorised persons)

(1) Section 126, heading, after ‘Functions’—

insert—

and general powers

- (2) Section 126(1), after ‘person’—

insert—

appointed by the chief executive

- (3) Section 126—

insert—

- (1A) An authorised person appointed by the chief executive officer of a local government has the following functions—

(a) to inspect places, or artefacts in a place, in the local government’s area for the purpose of deciding or recording the cultural heritage significance of the places or artefacts in the place;

(b) to conduct investigations and inspections to monitor and enforce compliance with—

(i) the local heritage provisions for the local government’s area; and

(ii) the Planning Act, so far as it relates to assessable development completely or partly for a local heritage place in the local government’s local heritage register.

- (4) Section 126(3), ‘chief executive’—

omit, insert—

administering executive

- (5) Section 126—

insert—

- (4) In this section—

local heritage provision, for a local government area, means a following provision of this Act to the extent it relates to a local heritage place in the

area of the local government—

- (a) part 6, division 2, if the chief executive officer is the decision-maker for the local heritage place;
- (b) part 7;
- (c) part 8, if the local government is prescribed by regulation under section 83.

- (6) Section 126(1A) to (4)—
renumber as section 126(2) to (5).

14 **Amendment of s 127 (Appointment conditions and limit on powers)**

- (1) Section 127(1)(a), ‘officer’s’—
omit, insert—

authorised person’s

- (2) Section 127(1)(b), ‘officer’—
omit, insert—

authorised person

- (3) Section 127(3)—
omit, insert—

- (3) Without limiting subsection (1) or (2), the instrument of appointment for an authorised person appointed by the chief executive officer of a local government must state the local heritage provisions for the local government’s area for which the authorised person is appointed.

- (4) In this section—

local heritage provision, for a local government area, see section 126(5).

signed notice means a notice signed by the administering executive.

15 Amendment of s 128 (Issue of identity card)

Section 128(1), ‘chief executive’—

omit, insert—

administering executive

16 Amendment of s 131 (Resignation)

Section 131(1), ‘chief executive’—

omit, insert—

administering executive

17 Amendment of s 132 (Return of identity card)

(1) Section 132, ‘chief executive’—

omit, insert—

administering executive

(2) Section 132, penalty—

omit, insert—

Maximum penalty—

(a) for an authorised person appointed by the chief executive—20 penalty units; or

(b) for an authorised person appointed by the chief executive officer of a local government—10 penalty units.

18 Amendment of s 141 (Seizing evidence at a place that may be entered without consent or warrant)

Section 141—

insert—

(2) This section does not apply to an authorised person appointed by the chief executive officer of a local government.

19 Amendment of s 142 (Seizing evidence at a place that may only be entered with consent or warrant)

- (1) Section 142(1), ‘This section applies’—

omit, insert—

Subsections (2) to (5) apply

- (2) Section 142(1)(a), after ‘person’—

insert—

appointed by the chief executive

- (3) Section 142—

insert—

- (6) If an authorised person appointed by the chief executive officer of a local government is authorised to enter a place under this division with a warrant, the authorised person may seize the evidence for which the warrant was issued.

20 Amendment of s 148 (Forfeiture of seized things)

- (1) Section 148(1), ‘the State’—

omit, insert—

a relevant entity

- (2) Section 148(4) to (6)—

omit, insert—

- (4) On the forfeiture of the thing to the relevant entity—
- (a) the thing becomes the relevant entity’s property; and
- (b) it must be dealt with by the administrator for the relevant entity as the administrator considers appropriate.
- (5) Without limiting subsection (4), the administrator for the relevant entity may destroy or dispose of

the thing.

- (6) Despite subsection (5), the administrator for the relevant entity must not deal with the thing in a way that could prejudice the outcome of an appeal, relevant to the thing, of which the administrator is aware.
- (7) The **administrator** for a relevant entity is—
 - (a) if the relevant entity is the State—the chief executive; or
 - (b) if the relevant entity is a local government—the chief executive officer of the local government.
- (8) The **relevant entity** for a seized thing is—
 - (a) if the thing was seized by an authorised person appointed by the chief executive—the State; or
 - (b) if the thing was seized by an authorised person appointed by the chief executive officer of a local government—the local government.

21 **Amendment of s 151 (Authorised persons may use help and force in exercise of powers)**

- (1) Section 151(2), after ‘council’—

insert—

or by the chief executive officer of a local government

- (2) Section 151(3), after ‘person’—

insert—

appointed by the chief executive

- (3) Section 151—

insert—

- (4) In addition, an authorised person appointed by the chief executive officer of a local government must not use force to enter a place under this division, other than when the place is entered under a warrant that authorises that use of force.

22 Amendment of s 153 (Compensation)

- (1) Section 153(1)—

omit, insert—

- (1) A person may claim compensation from the State if the person incurs loss because of the exercise, or purported exercise, of a power by or for an authorised person appointed by the chief executive.

- (1A) A person may claim compensation from a local government if the person incurs loss because of the exercise, or purported exercise, of a power by or for an authorised person appointed by the chief executive officer of the local government.

- (2) Section 153(1A) to (4)—

renumber as section 153(2) to (5).

- (3) Section 153(3), as renumbered, ‘cost’—

omit, insert—

compensation

- (4) Section 153(3)(a), as renumbered, after ‘amount’—

insert—

of compensation

- (5) Section 153(4), as renumbered, ‘an amount be paid’—

omit, insert—

the payment of compensation

23 Amendment of s 164A (Evidence)

(1) Section 164A(2), after ‘chief executive’—

insert—

or the chief executive officer of a local government

(2) Section 164A(2)(a)(i), after ‘register’—

insert—

or the local government’s local heritage register

24 Amendment of schedule (Dictionary)

Schedule—

insert—

administering executive means—

- (a) for a person appointed as an authorised person by the chief executive—the chief executive; or
- (b) for a person appointed as an authorised person by the chief executive officer of a local government—the chief executive officer.

Part 4 Amendment of Water Act 2000

25 Act amended

This part amends the *Water Act 2000*.

26 Amendment of s 412 (When does a water bore have an *impaired capacity*)

(1) Section 412(1)(a) and (2)(a), from ‘because’—

omit, insert—

[s 27]

and the exercise of underground water rights has, or has likely, caused or materially contributed to the decline; and

(2) Section 412—

insert—

(2A) Also, an existing water bore or a new water bore has an *impaired capacity* if—

(a) there is evidence of any of the following (each an *adverse effect*)—

(i) damage to the bore or to the bore's pumps or other infrastructure;

(ii) that the bore poses a health or safety risk;

(iii) that the bore can no longer, or it is likely that the bore can no longer, provide a reasonable quantity or quality of water for its authorised use or purpose; and

(b) free gas derived from the carrying out of authorised activities under a resource tenure has, or has likely, caused or materially contributed to the adverse effect.

(3) Section 412(2A) to (4)—

renumber as section 412(3) to (5).

27 Amendment of s 420 (What is a *make good agreement* for a water bore)

(1) Section 420(b)—

insert—

(iv) that the agreement may be terminated without penalty during the cooling-off period for the agreement; and

(2) Section 420—

insert—

- (c) that is not terminated by the bore owner under section 423A at any time during the cooling-off period for the agreement.

- (3) Section 420—

insert—

- (2) In this section—

cooling-off period, for a make good agreement for a water bore, see section 423A(4).

28 Insertion of new s 423A

Chapter 3, part 5, division 3, subdivision 2—

insert—

423A Termination of make good agreement during cooling-off period

- (1) This section applies if the responsible tenure holder for a water bore and the bore owner enter into a make good agreement for the bore.
- (2) The bore owner may, within the cooling-off period for the agreement, terminate the agreement by giving written notice to the responsible tenure holder for the water bore.
- (3) On the giving of the notice under subsection (2), the terminated agreement is taken never to have had effect.
- (4) This section does not apply to a make good agreement for a water bore that is the subject of a decision of the Land Court under division 4, subdivision 4.
- (5) In this section—
cooling-off period, for a make good agreement for a water bore, means a period of 5 business days—

- (a) starting on the day the make good agreement is entered into; and
- (b) ending at 5p.m. on the fifth business day.

29 Amendment of s 426 (Parties may seek conference or independent ADR)

- (1) Section 426(4)(b)—

omit, insert—

- (b) if the party giving the notice is the resource tenure holder—state that the holder bears the costs of the person who will facilitate the ADR.

- (2) Section 426—

insert—

- (7) The resource tenure holder must bear the costs of the person who will facilitate the ADR.

Part 5 Amendment of Water Reform and Other Legislation Amendment Act 2014

30 Act amended

This part amends the *Water Reform and Other Legislation Amendment Act 2014*.

Editor's note—

Legislation ultimately amended—

- *Mineral Resources Act 1989*
- *Water Act 2000*

31 Insertion of new s 11A

After section 11—

insert—

11A Insertion of new ch 15, pt 12

Chapter 15—

insert—

Part 12

Transitional provision for Water Reform and Other Legislation Amendment Act 2014

839 Restriction on entitlement to use underground water—Act, s 334ZP

- (1) This section applies in relation to a mineral development licence or mining lease if, before the commencement—
- (a) either—
- (i) an environmental authority was granted in relation to the mineral development licence or mining lease; or
 - (ii) an application for an environmental authority, or for an amendment of an environmental authority, in relation to the mineral development licence or mining lease was made but not decided; or
 - (iii) if an environmental authority in relation to the mineral development licence or mining lease had not been granted or applied for—there is a notified

coordinated project in relation to
the licence or lease; and

- (b) the entity who is or will be the holder of the mineral development licence or mining lease did not hold, but would have been required to hold, a water licence or water permit to take or interfere with underground water in the area of the licence or lease if the taking or interference were to have happened during the course of, or as a result of, the carrying out of authorised activities for the licence or lease.
- (2) Section 334ZP does not apply to the holder of the mineral development licence or mining lease until the holder has an associated water licence to take or interfere with associated water in the area of the licence or lease.
- (3) For the purposes of section 334ZP(8) and (9), an associated water licence is taken to be a water licence.
- (4) This section applies whether the mineral development licence or mining lease was granted before or after the commencement.
- (5) In this section—

associated water means underground water taken or interfered with in the circumstances mentioned in subsection (1)(b).

associated water licence see the Water Act, section 1250B.

notified coordinated project means a coordinated project under the *State Development and Public Works Organisation Act 1971* for which—

- (a) an environmental impact statement is required; and
- (b) the Coordinator-General has publicly notified under section 29 of that Act that an EIS is required for the project; and
- (c) either—
 - (i) the Coordinator-General has publicly notified under that section that comments on the draft terms of reference are invited; or
 - (ii) if the Coordinator-General has not publicly notified that comments on the draft terms of reference are invited—the terms of reference are finalised under section 30(3) of that Act.

32 Amendment of s 68 (Insertion of new ch 2)

Section 68, inserted section 53(b), ‘section 54’—

omit, insert—

section 54 or 55

33 Amendment of s 87 (Amendment of s 376 (Content of underground water impact report))

(1) Section 87, amendment of section 376, after subsection (1)—

insert—

(1A) Section 376—

insert—

- (da) a description of the impacts on environmental values that have occurred, or are likely to occur,

because of any previous exercise of
underground water rights;

(db) an assessment of the likely impacts on
environmental values that will occur, or
are likely to occur, because of the
exercise of underground water rights—

(i) during the period mentioned in
paragraph (a)(ii); and

(ii) over the projected life of the
resource tenure;

(2) Section 87, amendment of section 376, after subsection (2)—
insert—

(3) Section 376—

insert—

(3) In this section—

environmental value see the *Environmental
Protection Act 1994*, section 9.

**34 Amendment of s 116 (Amendment of s 418 (Direction by
chief executive to undertake bore assessment))**

Section 116(1), inserted section 418(1)—

insert—

(c) has an impaired capacity.

**35 Amendment of s 119 (Amendment of s 423 (Requirement
to enter into make good agreement and reimburse bore
owner))**

(1) Section 119, inserted section 423(3)(a)—

omit, insert—

(a) reimburse the bore owner for any
accounting, hydrogeology, legal or valuation
costs the bore owner necessarily and

reasonably incurs in negotiating or preparing a make good agreement; and

(2) Section 423—

insert—

(4) However, the holder is not required to reimburse the bore owner for hydrogeology costs incurred for work performed other than by an appropriately qualified hydrogeologist.

(5) In this section—

appropriately qualified hydrogeologist means an individual who has the minimum experience or qualifications, stated in the guidelines made by the chief executive under section 413, for undertaking a bore assessment.

36 Amendment of s 201 (Amendment of ch 9 (Transitional provisions and repeals))

(1) Section 201, before inserted section 1250—

insert—

Division 1 Preliminary

(2) Section 201, after inserted section 1250—

insert—

Division 2 Associated water licences

Subdivision 1 Preliminary

1250A Application of division

(1) This division applies in relation to a mining tenure if, before the commencement—

- (a) either—
 - (i) an environmental authority was granted in relation to the mining tenure; or
 - (ii) an application for an environmental authority, or for an amendment of an environmental authority, in relation to the mining tenure was made but not decided; or
 - (iii) if an environmental authority in relation to the mining tenure had not been granted or applied for—there is a notified coordinated project in relation to the tenure; and
- (b) the entity who is or will be the holder of the mining tenure did not hold, but would have been required to hold, a water licence or water permit to take or interfere with underground water in the area of the tenure if the taking or interference were to have happened during the course of, or as a result of, the carrying out of authorised activities for the tenure.
- (2) This division applies whether the mining tenure was granted before or after the commencement.
- (3) In this section—

notified coordinated project means a coordinated project under the *State Development and Public Works Organisation Act 1971* for which—

 - (a) an environmental impact statement is required; and
 - (b) the Coordinator-General has publicly notified under section 29 of that Act that an EIS is required for the project; and
 - (c) either—

- (i) the Coordinator-General has publicly notified under that section that comments on the draft terms of reference are invited; or
- (ii) if the Coordinator-General has not publicly notified that comments on the draft terms of reference are invited—the terms of reference are finalised under section 30(3) of that Act.

1250B Definitions for division

In this division—

associated water licence means a licence granted under this division.

dealing, with an associated water licence, means a dealing mentioned in section 1250H.

1250C Associated water licence

- (1) An associated water licence authorises the taking of or interference with underground water in the area of a mining tenure if the taking or interference happens during the course of, or results from, the carrying out of an authorised activity for the tenure.
- (2) An associated water licence may be granted only in relation to a mining tenure to which this division applies.
- (3) An associated water licence does not attach to land the subject of a mining tenure.
- (4) An associated water licence may be amended, renewed, reinstated, transferred, cancelled, surrendered or repealed.

Subdivision 2 Obtaining associated water licences

1250D Applying for an associated water licence

- (1) The entity who is or will be the holder of a mining tenure to which this division applies may apply to the chief executive for an associated water licence.
- (2) The application must include sufficient information to address the criteria mentioned in section 1250E(c) to (i).
- (3) The application must be accompanied by the same fee prescribed by regulation for an application for a water licence.
- (4) Sections 111 and 112, other than section 112(2), apply to the application as if—
 - (a) a reference in the sections to an application for a water licence were a reference to an application for an associated water licence; and
 - (b) a reference in the sections to an applicant for a water licence were a reference to an applicant for an associated water licence.
- (5) However, section 112(1) and (3) does not apply to the application if—
 - (a) the chief executive is satisfied the impacts on underground water in relation to the mining tenure—
 - (i) were assessed in an EIS under the *Environmental Protection Act 1994* or the *State Development and Public Works Organisation Act 1971*; and
 - (ii) were subject to consideration in a Land Court hearing in which objectors led

expert evidence on the impacts on underground water, and the Land Court outcome on the mining activities application did not specify any impediments, relating to taking or interfering with underground water, to the granting of the mining activities application; and

(b) the Land Court outcome mentioned in paragraph (a)(ii) was given before 13 September 2016.

(6) In this section—

Land Court outcome, on an application, means—

- (a) an objections decision of the Land Court under the *Environmental Protection Act 1994* for the application; or
- (b) a recommendation on the application made by the Land Court under the Mineral Resources Act.

mining activities application means—

- (a) the application for the mining tenure; or
- (b) the application for an environmental authority in relation to the mining tenure.

1250E Criteria for deciding application

In deciding whether to grant or refuse the application, the chief executive must consider the application together with—

- (a) if additional information has been given to the chief executive under section 111 as applied by section 1250D(4)—the additional information; and
- (b) all properly made submissions about the application in response to the notice of the

- application published under section 112 as applied by section 1250D(4); and
- (c) existing water entitlements and authorities to take or interfere with water; and
 - (d) any environmental assessments carried out in relation to the mining tenure, including—
 - (i) any conditions imposed on the mining tenure or on the environmental authority granted in relation to the mining tenure; and
 - (ii) any report prepared by the Coordinator-General under the *State Development and Public Works Organisation Act 1971*, section 34D evaluating the EIS prepared in relation to the mining tenure; and
 - (e) any information about the effects of taking, or interfering with, water on natural ecosystems; and
 - (f) any information about the effects of taking, or interfering with, water on the physical integrity of watercourses, lakes, springs and aquifers; and
 - (g) strategies for the management of impacts on underground water, including the impacts of dewatering; and
 - (h) strategies and policies for the relevant coastal zone; and
 - (i) the public interest.

1250F Deciding application

- (1) The chief executive must decide to grant, or to grant in part, with or without conditions, or refuse to grant, the application.

- (2) Before making a decision under subsection (1), the chief executive must consult with—
 - (a) the chief executive of the department in which chapter 3 is administered; and
 - (b) the chief executive of the department in which the *Environmental Protection Act 1994* is administered.
- (3) The chief executive must give the applicant, and any person who gave a properly made submission about the application, an information notice about the decision within 30 business days after deciding the application.
- (4) If the chief executive grants, or grants in part, with or without conditions, the application, the chief executive must, within 30 business days after the granting, give an associated water licence in the approved form to—
 - (a) the applicant; or
 - (b) if after making the application the applicant has ceased to be the holder of the mining tenure—the person who is the holder of the tenure when the chief executive gives the associated water licence.
- (5) The licence has effect from the day the information notice is given to the applicant.

1250G Contents and conditions of associated water licence

- (1) Sections 117 and 118 apply to an associated water licence as if—
 - (a) a reference in the sections to a water licence were a reference to an associated water licence; and
 - (b) a reference in the sections to water were a reference to underground water.

- (2) Also, without limiting section 118(1), as applied by subsection (1), the conditions may require the holder of the licence—
- (a) to carry out a management strategy to manage impacts on natural ecosystems, including springs; or
 - (b) to undertake a baseline assessment of water bores in the area of the holder's mining tenure.

Subdivision 3 Dealings with associated water licences

1250H Dealings

The following are dealings with associated water licences—

- (a) amending a licence;
- (b) renewing a licence;
- (c) reinstating a licence;
- (d) transferring a licence;
- (e) cancelling a licence;
- (f) surrendering a licence;
- (g) repealing a licence.

1250I Application for dealings

Sections 121(1), (2), (3)(b) and (c)(i) and 122(1) apply to a dealing with an associated water licence as if—

- (a) a reference in the sections to a water licence were a reference to an associated water licence; and

- (b) a reference in section 121 to a licensee of a water licence were a reference to the holder of an associated water licence; and
- (c) a reference in the sections to a dealing were a reference to a dealing under this subdivision; and
- (d) a reference in section 121(3)(b) to section 107 were a reference to section 1250D.

1250J Application to renew, or reinstate expired, associated water licence

Sections 124 and 125 apply to the renewal of an associated water licence, or reinstatement of an associated water licence that has expired, as if—

- (a) a reference in the sections to a water licence were a reference to an associated water licence; and
- (b) a reference in the sections to a water licensee were a reference to the holder of an associated water licence; and
- (c) the words ‘an application mentioned in section 121(3)(c)’ in section 125(1) were replaced by ‘an application to reinstate an associated water licence that has expired’; and
- (d) a reference in section 125 to an expired water licence were a reference to an associated water licence that has expired.

1250K Additional information may be required for application for dealings

Section 128 applies to an application for a dealing with an associated water licence as if a reference in the section to an application for a dealing were a reference to an application for a dealing under

this subdivision.

1250L When dealing must be assessed as if it were for a new associated water licence

If a proposed dealing for an associated water licence does 1 or more of the following, it must be assessed as if it were an application for a new associated water licence—

- (a) increases the amount of underground water that may be taken under the licence;
- (b) increases the daily rate or maximum rate per second at which underground water may be taken under the licence;
- (c) changes the location of taking or interfering with underground water under the licence;
- (d) increases or changes the interference with underground water under the licence.

1250M Recording other dealings

- (1) This section applies to a proposed dealing with an associated water licence other than a dealing to which section 1250L applies.
- (2) The chief executive must—
 - (a) approve the dealing and record it in the department's records within 30 business days after receiving the application for the dealing if the chief executive is satisfied the requirements for the application have been met; and
 - (b) if required, issue a new associated water licence.
- (3) If the chief executive does not approve the dealing, the chief executive must give the applicant notice of the decision, including the

reasons for the decision.

- (4) An associated water licence issued under subsection (2)(b) takes effect on the day it is given to the applicant.
- (5) An associated water licence replaced by a new associated water licence issued under subsection (2)(b) expires on the day the new licence is given.

1250N Actions chief executive may take in relation to associated water licences

Section 132 applies to an associated water licence as if—

- (a) the reference in section 132(1) to sections 133 to 135 were a reference to section 1250O(1) and (2) and sections 134(3) and 135 as applied by sections 1250O(3) and 1250P(1) and (2); and
- (b) a reference in the section to a water licence were a reference to an associated water licence.

1250O Amendment of associated water licence after show cause process

- (1) This section applies to an amendment of an associated water licence by the chief executive under section 132(1)(b) as applied by section 1250N.
- (2) The amendment must not—
 - (a) increase the amount of underground water that may be taken under the licence; or
 - (b) increase the daily rate or maximum rate per second at which underground water may be taken under the licence; or

- (c) change the location of taking or interfering with underground water under the licence;
or
 - (d) increase or change the interference with underground water under the licence.
- (3) Section 134(3) to (7) applies to the amendment as if—
- (a) a reference in the subsections to the licensee were a reference to the holder of an associated water licence; and
 - (b) a reference in the subsections to a water licence were a reference to an associated water licence; and
 - (c) a reference in the subsections to an amended water licence were a reference to an amended associated water licence.

1250P Cancellation or surrender of associated water licence

- (1) Subsection (2) applies to a cancellation of an associated water licence by the chief executive under section 132(1)(c) as applied by section 1250N.
- (2) Section 134, as applied by section 1250O, applies to the cancellation—
 - (a) as if a reference in the section to an amendment of an associated water licence were a reference to the cancellation of the licence; and
 - (b) with any necessary changes.
- (3) The holder of an associated water licence may surrender the licence by giving the chief executive notice of the surrender.
- (4) The surrender takes effect on the day on which the

notice to surrender is received by the chief executive.

Subdivision 4 Other matters

1250Q Application for water licence made but not decided before commencement

- (1) This section applies if—
 - (a) the holder of a mining tenure to which this division applies made an application for a water licence that would authorise the taking of or interference with underground water in the area of the tenure if the taking or interference were to happen during the course of, or as a result of, the carrying out of authorised activities for the tenure; but
 - (b) the application was not decided before the commencement.
- (2) Despite sections 1272 and 1273, the application is taken to be an application for an associated water licence and must be decided under this division.

1250R Compliance with underground water rights on granting of licence

- (1) This section applies if an application for an associated water licence is granted.
- (2) Until all rights of review and appeal under this Act in relation to the granting of the associated water licence are exhausted, the holder of the licence is taken not to have complied with the holder's underground water obligations for the purposes of the Mineral Resources Act, section 334ZP.
- (3) To remove any doubt, it is declared that this

section does not prevent the holder of the associated water licence taking or interfering with underground water under the licence.

1250S Associated water licence taken to be water licence for particular provisions

An associated water licence is taken to be a water licence for the purposes of the following provisions—

- (a) section 369A;
- (b) section 394A;

Note—

See, however, section 1250G.

- (c) section 812;
- (d) the Mineral Resources Act, section 334ZP(8) and (9).

1250T Consideration when making decisions about associated water licence

- (1) When making a decision under this division in relation to an associated water licence, the chief executive must consider the purpose of this Act as stated in section 2(1)(c).
- (2) To remove any doubt, it is declared that this division is not part of the framework for establishing a system for the planning, allocation and use of water.

Note—

For subsection (2), see a purpose of the Act mentioned in section 2(1)(a)(i).

1250U Agreement between holder of mining tenure and water bore

- (1) This section applies in relation to an agreement entered into by the following parties about a water bore if the bore is affected, or likely to be affected, by the taking of or interfering with underground water in the area of the tenure—
 - (a) the holder of a mining tenure who is also the holder of an associated water licence;
 - (b) the bore owner of the water bore.
- (2) The agreement is taken to be a make good agreement for the water bore that is entered into by the holder of the mining tenure and the bore owner.
- (3) The holder of the mining tenure is taken to have complied with the holder's obligations to undertake a bore assessment for the water bore under chapter 3, part 5, division 2.

Division 3 Other transitional provisions

- (3) Section 201, after inserted section 1280A—
insert—

1280B Content of underground water impact report

Section 376(1)(da) does not apply to an underground water impact report given to the chief executive under section 370 within 3 months after the commencement.

Division 4 Regulation-making power for transitional purposes

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