

Environmental Protection Amendment Regulation (No. 1) 2017

Explanatory notes for SL 2017 No. 3

made under the

Environmental Protection Act 1994

General Outline

Short title

Environmental Protection Amendment Regulation (No. 1) 2017

Authorising law

Section 580 of the *Environmental Protection Act 1994*

Policy objectives and the reasons for them

The objective of the *Environmental Protection Amendment Regulation (No. 1) 2017* (the Amendment Regulation) is to amend the *Environmental Protection Regulation 2008* to approve a guideline about issuing particular environmental protection orders.

A guideline has been prepared to support amendments to the *Environmental Protection Act 1994* made by the *Environmental Protection (Chain of Responsibility) Amendment Act 2016*.

The administering authority must have regard to the guideline in deciding:

- whether a person or company is a 'related person' to a company for the purposes of section 363AB of the *Environmental Protection Act 1994*; and
- which, if any, of the 'related persons' an environmental protection order should be issued to (section 363ABA).

Under section 548A(2) of the *Environmental Protection Act 1994*, this guideline will take effect when it is approved by regulation.

Achievement of policy objectives

To achieve its objective, the Amendment Regulation inserts a new section in the *Environmental Protection Regulation 2008* providing for the approval of the guideline.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the object of the *Environmental Protection Act 1994*, which is to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (ecologically sustainable development).

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

The guideline will support the implementation of the *Environmental Protection (Chain of Responsibility) Amendment Act 2016*. The guideline will provide guidance to departmental officers in deciding whether to issue an environmental protection order and will also address uncertainty in the industry and amongst other stakeholders regarding the reach of the new powers inserted by the *Environmental Protection (Chain of Responsibility) Amendment Act 2016*.

This amendment will not add to the administrative costs of the Queensland Government.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles. The amendment is specifically envisaged by section 548A of the *Environmental Protection Act 1994*, and therefore considered to be within power and consistent with the policy objectives of the authorising law.

Consultation

Extensive consultation has been undertaken in the development of the guideline to which this Amendment Regulation relates.

A working group, representing a diverse range of perspectives, was formed to assist in the development of the guideline. Working group members included Queensland Resources Council, Peabody Energy, Australian Bankers' Association, Australian Petroleum Production and Exploration Association, Queensland Law Society, Environmental Defenders Office, Chamber of Commerce and Industry Queensland, Association of Mining and Exploration Companies, Queensland Environmental Law Association, Australian Institute of Company Directors and Australian Restructuring Insolvency and Turnaround Association.

A draft version of the guideline was also published online for a period of two weeks in November 2016 and submissions on this draft were sought.

All submissions and comments received during the consultation process were considered in finalising the guideline.