



Queensland

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



Queensland

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

Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
Part 2	Amendment of Environmental Protection Act 1994	
3	Act amended	6
4	Amendment of s 112 (Other key definitions for ch 5)	6
5	Insertion of new s 126A	7
	126A Requirements for site-specific applications—particular resource projects and resource activities	7
6	Amendment of s 207 (Conditions that may be imposed)	8
7	Amendment of s 215 (Other amendments)	9
8	Insertion of new s 227AA	9
	227AA Requirements for amendment applications—underground water rights	9
9	Amendment of s 683 (Effect of commencement on particular applications)	10
10	Insertion of new ch 13, pt 26	10
	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	10
	749 Administering authority to make decision on s 683 applications	11
Part 3	Amendment of Queensland Heritage Act 1992	
11	Act amended	11
12	Amendment of s 125 (Appointment and qualifications)	12

Contents

13	Amendment of s 126 (Functions of authorised persons)	12
14	Amendment of s 127 (Appointment conditions and limit on powers)	14
15	Amendment of s 128 (Issue of identity card)	14
16	Amendment of s 131 (Resignation)	15
17	Amendment of s 132 (Return of identity card)	15
18	Amendment of s 141 (Seizing evidence at a place that may be entered without consent or warrant)	15
19	Amendment of s 142 (Seizing evidence at a place that may only be entered with consent or warrant)	15
20	Amendment of s 148 (Forfeiture of seized things)	16
21	Amendment of s 151 (Authorised persons may use help and force in exercise of powers)	17
22	Amendment of s 153 (Compensation)	18
23	Amendment of s 164A (Evidence)	18
24	Amendment of schedule (Dictionary)	18
Part 4	Amendment of Water Act 2000	
25	Act amended	19
26	Amendment of s 412 (When does a water bore have an impaired capacity)	19
27	Amendment of s 420 (What is a make good agreement for a water bore)	20
28	Insertion of new s 423A	20
	423A Termination of make good agreement during cooling-off period	21
29	Amendment of s 426 (Parties may seek conference or independent ADR)	21
Part 5	Amendment of Water Reform and Other Legislation Amendment Act 2014	
30	Act amended	22
31	Insertion of new s 11A	22
	11A Insertion of new ch 15, pt 12	22
	Part 12 Transitional provision for Water Reform and Other Legislation Amendment Act 2014	
	839 Restriction on entitlement to use underground water—Act, s 334ZP	22
32	Amendment of s 68 (Insertion of new ch 2)	24
33	Amendment of s 87 (Amendment of s 376 (Content of underground water impact report))	25
34	Amendment of s 116 (Amendment of s 418 (Direction by chief executive	

	to undertake bore assessment))	26
35	Amendment of s 119 (Amendment of s 423 (Requirement to enter into make good agreement and reimburse bore owner))	26
36	Amendment of s 201 (Amendment of ch 9 (Transitional provisions and repeals))	26
	Division 2 Associated water licences	
	Subdivision 1 Preliminary	
	1250A Application of division	27
	1250B Definitions for division	28
	1250C Associated water licence	28
	Subdivision 2 Obtaining associated water licences	
	1250D Applying for an associated water licence	29
	1250E Criteria for deciding application	29
	1250F Deciding application	30
	1250G Contents and conditions of associated water licence	31
	Subdivision 3 Dealings with associated water licences	
	1250H Dealings	32
	1250I Application for dealings	32
	1250J Application to renew, or reinstate expired, associated water licence	33
	1250K Additional information may be required for application for dealings	33
	1250L When dealing must be assessed as if it were for a new associated water licence	33
	1250M Recording other dealings	34
	1250N Actions chief executive may take in relation to associated water licences	35
	1250O Amendment of associated water licence after show cause process	35
	1250P Cancellation or surrender of associated water licence	36
	Subdivision 4 Other matters	
	1250Q Application for water licence made but not decided before commencement	37
	1250R Compliance with underground water rights on granting of licence	37
	1250S Associated water licence taken to be water licence for particular provisions	37
	1250T Consideration when making decisions about associated water licence	38

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

Contents

1250U	Agreement between holder of mining tenure and water bore	38
Division 3	Other transitional provisions	
1280B	Content of underground water impact report	39

2016

A Bill

for

An Act to amend the *Environmental Protection Act 1994*, the *Mineral Resources Act 1989*, 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— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Environmental Protection (Underground Water Management) and Other Legislation Amendment Act 2016*. 4
5
6

Clause 2 Commencement 7

- (1) Parts 2 and 4 commence immediately after the commencement of the *Water Reform and Other Legislation Amendment Act 2014*, section 11. 8
9
10
- (2) Part 3 commences on a day to be fixed by proclamation. 11

Part 2 Amendment of Environmental Protection Act 1994 12
13

Clause 3 Act amended 14

This part amends the *Environmental Protection Act 1994*. 15

Clause 4 Amendment of s 112 (Other key definitions for ch 5) 16

Section 112— 17

insert— 18

underground water rights means any of the following— 19
20

- (a) underground water rights within the meaning of the *Mineral Resources Act 1989*; 21
22

-
- (b) underground water rights within the meaning of the *Petroleum and Gas (Production and Safety) Act 2004*; 1
2
3
- (c) underground water rights within the meaning of the *Petroleum Act 1923*, section 87(3). 4
5
6

Clause 5 Insertion of new s 126A 7

After section 126— 8

insert— 9

126A Requirements for site-specific applications—particular resource projects and resource activities 10
11
12

- (1) This section applies to a site-specific application, involving the exercise of underground water rights, for— 13
14
15
- (a) a resource project that includes a resource tenure that is a mineral development licence, mining lease or petroleum lease; or 16
17
18
- (b) a resource activity for which the relevant tenure is a mineral development licence, mining lease or petroleum lease. 19
20
21
- (2) The application must also state the following— 22
- (a) any proposed exercise of underground water rights during the period in which resource activities will be carried out under the relevant tenure; 23
24
25
26
- (b) the areas in which underground water rights are proposed to be exercised; 27
28
- (c) for each aquifer affected, or likely to be affected, by the exercise of underground water rights— 29
30
31
- (i) a description of the aquifer; and 32

[s 6]

	(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	1 2 3 4 5
	(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	6 7 8 9
	(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;	10 11 12 13 14
	(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;	15 16 17 18
	(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;	19 20 21 22 23
	(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).	24 25 26 27 28
Clause 6	Amendment of s 207 (Conditions that may be imposed)	29
	Section 207(1)—	30
	<i>insert—</i>	31
	(g) relate to the exercise of underground water rights.	32 33

Clause 7	Amendment of s 215 (Other amendments)	1
	(1) Section 215(2)—	2
	<i>insert—</i>	3
	(pa) for an environmental authority for a resource activity—an underground water impact report under the <i>Water Act 2000</i> , chapter 3, identifies impacts, or potential impacts, on an environmental value;	4 5 6 7 8
	(2) Section 215(3), after ‘(2)(c)’—	9
	<i>insert—</i>	10
	or (d)	11
Clause 8	Insertion of new s 227AA	12
	Chapter 5, part 7, division 2, after section 227—	13
	<i>insert—</i>	14
	227AA Requirements for amendment applications—underground water rights	15 16
	(1) This section applies for an amendment application if—	17 18
	(a) the application relates to a site-specific environmental authority for—	19 20
	(i) a resource project that includes a resource tenure that is a mineral development licence, mining lease or petroleum lease; or	21 22 23 24
	(ii) a resource activity for which the relevant tenure is a mineral development licence, mining lease or petroleum lease; and	25 26 27 28
	(b) the proposed amendment involves changes to the exercise of underground water rights.	29 30
	(2) The application must also state the matters	31

	mentioned in section 126A(2).	1	
	(3) In this section—	2	
	<i>site-specific environmental authority</i> means an environmental authority that includes 1 or more ineligible ERAs.	3 4 5	
Clause 9	Amendment of s 683 (Effect of commencement on particular applications)	6 7	
	Section 683(2)—	8	
	<i>insert—</i>	9	
	<i>Note—</i>	10	
	See, however, section 749.	11	
Clause 10	Insertion of new ch 13, pt 26	12	
	Chapter 13—	13	
	<i>insert—</i>	14	
	Part 26	Transitional provisions for Environmental Protection (Underground Water Management) and Other Legislation Amendment Act 2016	15 16 17 18 19 20 21
	748 Particular applications made but not decided before commencement	22 23	
	(1) This section applies if—	24	
	(a) an application of a type mentioned in section 126A or 227AA was made before the commencement; and	25 26 27	

	(b) immediately before the commencement, the application had not been decided.	1 2
	(2) The application must be dealt with and decided as if the <i>Environmental Protection (Underground Water Management) and Other Legislation Amendment Act 2016</i> had not commenced.	3 4 5 6
749	Administering authority to make decision on s 683 applications	7 8
	(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.	9 10 11 12
	(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.	13 14 15 16 17 18 19
	(3) In this section—	20
	<i>EPA Minister</i> means the Minister administering this Act.	21 22
	<i>former section 225</i> means section 225 as in force immediately before the commencement of the <i>Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012</i> , section 7.	23 24 25 26 27
Part 3	Amendment of Queensland Heritage Act 1992	28 29
Clause 11	Act amended	30
	This part amends the <i>Queensland Heritage Act 1992</i> .	31

Clause 12	Amendment of s 125 (Appointment and qualifications)	1
(1)	Section 125(1), after ‘may’—	2
	<i>insert—</i>	3
	, by instrument in writing,	4
(2)	Section 125(2) and (3)—	5
	<i>omit, insert—</i>	6
	(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.	7 8 9 10
	(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.	11 12 13 14
	(4) In this section—	15
	<i>local government employee</i> means—	16
	(a) a local government employee under the <i>Local Government Act 2009</i> ; or	17 18
	(b) a council employee under the <i>City of Brisbane Act 2010</i> .	19 20
Clause 13	Amendment of s 126 (Functions of authorised persons)	21
(1)	Section 126, heading, after ‘Functions’—	22
	<i>insert—</i>	23
	and general powers	24
(2)	Section 126(1), after ‘person’—	25
	<i>insert—</i>	26
	appointed by the chief executive	27
(3)	Section 126—	28
	<i>insert—</i>	29

-
- (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)— 1
renumber as section 126(2) to (5). 2

Clause 14	Amendment of s 127 (Appointment conditions and limit on powers)	3
		4
	(1) Section 127(1)(a), ‘officer’s’—	5
	<i>omit, insert</i> —	6
	authorised person’s	7
	(2) Section 127(1)(b), ‘officer’—	8
	<i>omit, insert</i> —	9
	authorised person	10
	(3) Section 127(3)—	11
	<i>omit, insert</i> —	12
	(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.	13 14 15 16 17 18
	(4) In this section—	19
	<i>local heritage provision</i> , for a local government area, see section 126(5).	20 21
	<i>signed notice</i> means a notice signed by the administering executive.	22 23

Clause 15	Amendment of s 128 (Issue of identity card)	24
	Section 128(1), ‘chief executive’—	25
	<i>omit, insert</i> —	26
	administering executive	27

Clause 16	Amendment of s 131 (Resignation)	1
	Section 131(1), ‘chief executive’—	2
	<i>omit, insert</i> —	3
	administering executive	4
Clause 17	Amendment of s 132 (Return of identity card)	5
	(1) Section 132, ‘chief executive’—	6
	<i>omit, insert</i> —	7
	administering executive	8
	(2) Section 132, penalty—	9
	<i>omit, insert</i> —	10
	Maximum penalty—	11
	(a) for an authorised person appointed by the chief executive—20 penalty units; or	12 13
	(b) for an authorised person appointed by the chief executive officer of a local government—10 penalty units.	14 15 16
Clause 18	Amendment of s 141 (Seizing evidence at a place that may be entered without consent or warrant)	17 18
	Section 141—	19
	<i>insert</i> —	20
	(2) This section does not apply to an authorised person appointed by the chief executive officer of a local government.	21 22 23
Clause 19	Amendment of s 142 (Seizing evidence at a place that may only be entered with consent or warrant)	24 25
	(1) Section 142(1), ‘This section applies’—	26
	<i>omit, insert</i> —	27

[s 20]

	Subsections (2) to (5) apply	1
(2)	Section 142(1)(a), after ‘person’—	2
	<i>insert—</i>	3
	appointed by the chief executive	4
(3)	Section 142—	5
	<i>insert—</i>	6
	(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.	7 8 9 10 11
Clause 20	Amendment of s 148 (Forfeiture of seized things)	12
(1)	Section 148(1), ‘the State’—	13
	<i>omit, insert—</i>	14
	a relevant entity	15
(2)	Section 148(4) to (6)—	16
	<i>omit, insert—</i>	17
	(4) On the forfeiture of the thing to the relevant entity—	18 19
	(a) the thing becomes the relevant entity’s property; and	20 21
	(b) it must be dealt with by the administrator for the relevant entity as the administrator considers appropriate.	22 23 24
	(5) Without limiting subsection (4), the administrator for the relevant entity may destroy or dispose of the thing.	25 26 27
	(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	28 29 30 31

	administrator is aware.	1
(7)	The administrator for a relevant entity is—	2
(a)	if the relevant entity is the State—the chief executive; or	3 4
(b)	if the relevant entity is a local government—the chief executive officer of the local government.	5 6 7
(8)	The relevant entity for a seized thing is—	8
(a)	if the thing was seized by an authorised person appointed by the chief executive—the State; or	9 10 11
(b)	if the thing was seized by an authorised person appointed by the chief executive officer of a local government—the local government.	12 13 14 15
Clause 21	Amendment of s 151 (Authorised persons may use help and force in exercise of powers)	16 17
(1)	Section 151(2), after ‘council’—	18
	<i>insert—</i>	19
	or by the chief executive officer of a local government	20 21
(2)	Section 151(3), after ‘person’—	22
	<i>insert—</i>	23
	appointed by the chief executive	24
(3)	Section 151—	25
	<i>insert—</i>	26
(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.	27 28 29 30 31

Clause 22	Amendment of s 153 (Compensation)	1
	(1) Section 153(1)—	2
	<i>omit, insert—</i>	3
	(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.	4 5 6 7 8
	(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.	9 10 11 12 13
	(2) Section 153(1A) to (4)—	14
	<i>renumber</i> as section 153(2) to (5).	15
Clause 23	Amendment of s 164A (Evidence)	16
	(1) Section 164A(2), after ‘chief executive’—	17
	<i>insert—</i>	18
	or the chief executive officer of a local government	19 20
	(2) Section 164A(2)(a)(i), after ‘register’—	21
	<i>insert—</i>	22
	or the local government’s local heritage register	23
Clause 24	Amendment of schedule (Dictionary)	24
	Schedule—	25
	<i>insert—</i>	26
	<i>administering executive</i> means—	27

-
- (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

- Clause 25 Act amended**
- This part amends the *Water Act 2000*.
- Clause 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—
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,

[s 27]

	provide a reasonable quantity or	1
	quality of water for its authorised use	2
	or purpose; and	3
	(b) free gas derived from the carrying out of	4
	authorised activities under a resource tenure	5
	has, or has likely, caused or materially	6
	contributed to the adverse effect.	7
(3)	Section 412(2A) to (4)—	8
	<i>renumber</i> as section 412(3) to (5).	9
Clause 27	Amendment of s 420 (What is a <i>make good agreement</i> for a water bore)	10
		11
(1)	Section 420(b)—	12
	<i>insert</i> —	13
	(iv) that the agreement may be terminated	14
	without penalty during the cooling-off	15
	period for the agreement; and	16
(2)	Section 420—	17
	<i>insert</i> —	18
	(c) that is not terminated by the bore owner	19
	under section 423A at any time during the	20
	cooling-off period for the agreement.	21
(3)	Section 420—	22
	<i>insert</i> —	23
	(2) In this section—	24
	<i>cooling-off period</i> , for a make good agreement	25
	for a water bore, see section 423A(4).	26
Clause 28	Insertion of new s 423A	27
	Chapter 3, part 5, division 3, subdivision 2—	28
	<i>insert</i> —	29

423A Termination of make good agreement during cooling-off period	1
	2
(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 during the cooling-off period for the agreement.	3
	4
	5
	6
(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.	7
	8
	9
	10
(3) On the giving of the notice under subsection (2), the terminated agreement is taken never to have had effect.	11
	12
	13
(4) In this section—	14
<i>cooling-off period</i> , for a make good agreement for a water bore, means the period—	15
	16
(a) starting on the day the bore assessment of the water bore is undertaken; and	17
	18
(b) ending on the day mentioned in section 423(2)(a).	19
	20

Clause 29 Amendment of s 426 (Parties may seek conference or independent ADR)	21
	22
(1) Section 426(4)(b)—	23
<i>omit, insert—</i>	24
(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.	25
	26
	27
	28
(2) Section 426—	29
<i>insert—</i>	30
(7) The resource tenure holder must bear the costs of the person who will facilitate the ADR.	31
	32

Part 5	Amendment of Water Reform and Other Legislation Amendment Act 2014	1 2 3
Clause 30	Act amended	4
	This part amends the <i>Water Reform and Other Legislation Amendment Act 2014</i> .	5 6
	<i>Editor's note—</i>	7
	Legislation ultimately amended—	8
	• <i>Mineral Resources Act 1989</i>	9
	• <i>Water Act 2000</i>	10
Clause 31	Insertion of new s 11A	11
	After section 11—	12
	<i>insert—</i>	13
	11A Insertion of new ch 15, pt 12	14
	Chapter 15—	15
	<i>insert—</i>	16
	Part 12	17
	Transitional provision for Water Reform and Other Legislation Amendment Act 2014	18 19 20 21 22
	839 Restriction on entitlement to use underground water—Act, s 334ZP	23 24
	(1) This section applies in relation to a mineral development licence or mining lease if, before the commencement—	25 26 27

-
- (a) either— 1
- (i) an environmental authority was 2
granted in relation to the mineral 3
development licence or mining 4
lease; or 5
 - (ii) an application for an 6
environmental authority in 7
relation to the mineral 8
development licence or mining 9
lease was made but not decided; 10
or 11
 - (iii) if an environmental authority in 12
relation to the mineral 13
development licence or mining 14
lease had not been granted or 15
applied for—there is a notified 16
coordinated project in relation to 17
the licence or lease; and 18
- (b) the entity who is or will be the holder 19
of the mineral development licence or 20
mining lease did not hold, but would 21
have been required to hold, a water 22
licence or water permit to take or 23
interfere with underground water in the 24
area of the licence or lease if the taking 25
or interference were to have happened 26
during the course of, or as a result of, 27
the carrying out of authorised activities 28
for the licence or lease. 29
- (2) Section 334ZP does not apply to the holder 30
of the mineral development licence or 31
mining lease until the holder has an 32
associated water licence to take or interfere 33
with associated water in the area of the 34
licence or lease. 35
- (3) For the purposes of section 334ZP(8) and 36
(9), an associated water licence is taken to be 37

	a water licence.	1
(4)	This section applies whether the mineral development licence or mining lease was granted before or after the commencement.	2 3 4
(5)	In this section—	5
	<i>associated water</i> means underground water taken or interfered with in the circumstances mentioned in subsection (1)(b).	6 7 8
	<i>associated water licence</i> see the Water Act, section 1250B.	9 10
	<i>notified coordinated project</i> means a coordinated project under the <i>State Development and Public Works Organisation Act 1971</i> for which—	11 12 13 14
(a)	an environmental impact statement is required; and	15 16
(b)	the Coordinator-General has publicly notified under section 29 of that Act that an EIS is required for the project; and	17 18 19 20
(c)	either—	21
(i)	the Coordinator-General has publicly notified under that section that comments on the draft terms of reference are invited; or	22 23 24 25
(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.	26 27 28 29 30 31
Clause 32	Amendment of s 68 (Insertion of new ch 2)	32
	Section 68, inserted section 53(b), ‘section 54’—	33

omit, insert— 1
section 54 or 55 2

Clause 33 Amendment of s 87 (Amendment of s 376 (Content of underground water impact report)) 3
4

(1) Section 87, amendment of section 376, after subsection (1)— 5

insert— 6

(1A) Section 376— 7

insert— 8

(da) a description of the impacts on 9
environmental values that have 10
occurred, or are likely to occur, 11
because of any previous exercise of 12
underground water rights; 13

(db) an assessment of the likely impacts on 14
environmental values that will occur, or 15
are likely to occur, because of the 16
exercise of underground water rights— 17

(i) during the period mentioned in 18
paragraph (a)(ii); and 19

(ii) over the projected life of the 20
resource tenure; 21

(2) Section 87, amendment of section 376, after subsection (2)— 22

insert— 23

(3) Section 376— 24

insert— 25

(3) In this section— 26

environmental value see the *Environmental* 27
Protection Act 1994, section 9. 28

[s 34]

Clause 34	Amendment of s 116 (Amendment of s 418 (Direction by chief executive to undertake bore assessment))	1 2
	Section 116(1), inserted section 418(1)—	3
	<i>insert—</i>	4
	(c) has an impaired capacity.	5
Clause 35	Amendment of s 119 (Amendment of s 423 (Requirement to enter into make good agreement and reimburse bore owner))	6 7 8
	Section 119, inserted section 423(3)(a)—	9
	<i>omit, insert—</i>	10
	(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	11 12 13 14 15
Clause 36	Amendment of s 201 (Amendment of ch 9 (Transitional provisions and repeals))	16 17
	(1) Section 201, before inserted section 1250—	18
	<i>insert—</i>	19
	Division 1 Preliminary	20
	(2) Section 201, after inserted section 1250—	21
	<i>insert—</i>	22
	Division 2 Associated water licences	23
	Subdivision 1 Preliminary	24

1250A Application of division

- | | |
|--|----|
| | 1 |
| (1) This division applies in relation to a mining tenure | 2 |
| if, before the commencement— | 3 |
| (a) either— | 4 |
| (i) an environmental authority was granted | 5 |
| in relation to the mining tenure; or | 6 |
| (ii) an application for an environmental | 7 |
| authority in relation to the mining | 8 |
| tenure was made but not decided; or | 9 |
| (iii) if an environmental authority in | 10 |
| relation to the mining tenure had not | 11 |
| been granted or applied for—there is a | 12 |
| notified coordinated project in relation | 13 |
| to the tenure; and | 14 |
| (b) the entity who is or will be the holder of the | 15 |
| mining tenure did not hold, but would have | 16 |
| been required to hold, a water licence or | 17 |
| water permit to take or interfere with | 18 |
| underground water in the area of the tenure | 19 |
| if the taking or interference were to have | 20 |
| happened during the course of, or as a result | 21 |
| of, the carrying out of authorised activities | 22 |
| for the tenure. | 23 |
| (2) This division applies whether the mining tenure | 24 |
| was granted before or after the commencement. | 25 |
| (3) In this section— | 26 |
| <i>notified coordinated project</i> means a coordinated | 27 |
| project under the <i>State Development and Public</i> | 28 |
| <i>Works Organisation Act 1971</i> for which— | 29 |
| (a) an environmental impact statement is | 30 |
| required; and | 31 |
| (b) the Coordinator-General has publicly | 32 |
| notified under section 29 of that Act that an | 33 |
| EIS is required for the project; and | 34 |

- (c) either— 1
 - (i) the Coordinator-General has publicly 2
notified under that section that 3
comments on the draft terms of 4
reference are invited; or 5
 - (ii) if the Coordinator-General has not 6
publicly notified that comments on the 7
draft terms of reference are 8
invited—the terms of reference are 9
finalised under section 30(3) of that 10
Act. 11

1250B Definitions for division 12

In this division— 13

associated water licence means a licence granted 14
under this division. 15

dealing, with an associated water licence, means 16
a dealing mentioned in section 1250H. 17

1250C Associated water licence 18

- (1) An associated water licence authorises the taking 19
of or interference with underground water in the 20
area of a mining tenure if the taking or 21
interference happens during the course of, or 22
results from, the carrying out of an authorised 23
activity for the tenure. 24
- (2) An associated water licence may be granted only 25
in relation to a mining tenure to which this 26
division applies. 27
- (3) An associated water licence does not attach to 28
land the subject of a mining tenure. 29
- (4) An associated water licence may be amended, 30
renewed, reinstated, transferred, cancelled, 31
surrendered or repealed. 32

Subdivision 2 Obtaining associated water licences 1
2

1250D Applying for an associated water licence 3

- (1) The entity who is or will be the holder of a mining 4
tenure to which this division applies may apply to 5
the chief executive for an associated water 6
licence. 7
- (2) The application must include sufficient 8
information to address the criteria mentioned in 9
section 1250E(c) to (i). 10
- (3) The application must be accompanied by the same 11
fee prescribed by regulation for an application for 12
a water licence. 13
- (4) Sections 111 and 112, other than section 112(2), 14
apply to the application as if— 15
- (a) a reference in the sections to an application 16
for a water licence were a reference to an 17
application for an associated water licence; 18
and 19
- (b) a reference in the sections to an applicant for 20
a water licence were a reference to an 21
applicant for an associated water licence. 22

1250E Criteria for deciding application 23

- In deciding whether to grant or refuse the 24
application, the chief executive must consider the 25
application together with— 26
- (a) if additional information has been given to 27
the chief executive under section 111 as 28
applied by section 1250D(3)—the 29
additional information; and 30
- (b) all properly made submissions about the 31
application in response to the notice of the 32

- | | |
|--|----|
| application published under section 111 as | 1 |
| applied by section 1250D(3); and | 2 |
| (c) existing water entitlements and authorities | 3 |
| to take or interfere with water; and | 4 |
| (d) any environmental assessments carried out | 5 |
| in relation to the mining tenure, including— | 6 |
| (i) any conditions imposed on the mining | 7 |
| tenure or on the environmental | 8 |
| authority granted in relation to the | 9 |
| mining tenure; and | 10 |
| (ii) any report prepared by the | 11 |
| Coordinator-General under the <i>State</i> | 12 |
| <i>Development and Public Works</i> | 13 |
| <i>Organisation Act 1971</i> , section 34D | 14 |
| evaluating the EIS prepared in relation | 15 |
| to the mining tenure; and | 16 |
| (e) any information about the effects of taking, | 17 |
| or interfering with, water on natural | 18 |
| ecosystems; and | 19 |
| (f) any information about the effects of taking, | 20 |
| or interfering with, water on the physical | 21 |
| integrity of watercourses, lakes, springs and | 22 |
| aquifers; and | 23 |
| (g) strategies for the management of impacts on | 24 |
| underground water, including the impacts of | 25 |
| dewatering; and | 26 |
| (h) strategies and policies for the relevant | 27 |
| coastal zone; and | 28 |
| (i) the public interest. | 29 |

1250F Deciding application 30

- | | |
|--|----|
| (1) The chief executive must decide to grant, or to | 31 |
| grant in part, with or without conditions, or refuse | 32 |
| to grant, the application. | 33 |

-
- (2) 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.
- (3) 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.
- (4) 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. 1
2
3

Subdivision 3 Dealings with associated water licences 4 5

1250H Dealings 6

The following are dealings with associated water licences— 7
8

- (a) amending a licence; 9
- (b) renewing a licence; 10
- (c) reinstating a licence; 11
- (d) transferring a licence; 12
- (e) cancelling a licence; 13
- (f) surrendering a licence; 14
- (g) repealing a licence. 15

1250I Application for dealings 16

Sections 121(1), (2), (3)(b) and (c)(i) and 122(1) apply to a dealing with an associated water licence as if— 17
18
19

- (a) a reference in the sections to a water licence were a reference to an associated water licence; and 20
21
22
- (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 23
24
25
- (c) a reference in the sections to a dealing were a reference to a dealing under this subdivision; and 26
27
28

-
- (d) a reference in section 121(3)(b) to section 107 were a reference to section 1250D. 1
2

1250J Application to renew, or reinstate expired, associated water licence 3
4

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— 5
6
7

- (a) a reference in the sections to a water licence were a reference to an associated water licence; and 8
9
10

- (b) a reference in the sections to a water licensee were a reference to the holder of an associated water licence; and 11
12
13

- (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 14
15
16
17
18

- (d) a reference in section 125 to an expired water licence were a reference to an associated water licence that has expired. 19
20
21

1250K Additional information may be required for application for dealings 22
23

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. 24
25
26
27
28

1250L When dealing must be assessed as if it were for a new associated water licence 29
30

If a proposed dealing for an associated water licence does 1 or more of the following, it must be 31
32

- | | |
|---|----|
| assessed as if it were an application for a new | 1 |
| associated water licence— | 2 |
| (a) increases the amount of underground water | 3 |
| that may be taken under the licence; | 4 |
| (b) increases the daily rate or maximum rate per | 5 |
| second at which underground water may be | 6 |
| taken under the licence; | 7 |
| (c) changes the location of taking or interfering | 8 |
| with underground water under the licence; | 9 |
| (d) increases or changes the interference with | 10 |
| underground water under the licence. | 11 |

1250M Recording other dealings 12

- | | |
|--|----|
| (1) This section applies to a proposed dealing with an | 13 |
| associated water licence other than a dealing to | 14 |
| which section 1250L applies. | 15 |
| (2) The chief executive must— | 16 |
| (a) approve the dealing and record it in the | 17 |
| department's records within 30 business | 18 |
| days after receiving the application for the | 19 |
| dealing if the chief executive is satisfied the | 20 |
| requirements for the application have been | 21 |
| met; and | 22 |
| (b) if required, issue a new associated water | 23 |
| licence. | 24 |
| (3) If the chief executive does not approve the | 25 |
| dealing, the chief executive must give the | 26 |
| applicant notice of the decision, including the | 27 |
| reasons for the decision. | 28 |
| (4) An associated water licence issued under | 29 |
| subsection (2)(b) takes effect on the day it is given | 30 |
| to the applicant. | 31 |
| (5) An associated water licence replaced by a new | 32 |
| associated water licence issued under subsection | 33 |

(2)(b) expires on the day the new licence is given. 1

**1250N Actions chief executive may take in relation
to associated water licences** 2
3

Section 132 applies to an associated water licence 4
as if— 5

(a) the reference in section 132(1) to sections 6
133 to 135 were a reference to section 7
1250O(1) and (2) and sections 134(3) and 8
135 as applied by sections 1250O(3) and 9
1250P(1) and (2); and 10

(b) a reference in the section to a water licence 11
were a reference to an associated water 12
licence. 13

**1250O Amendment of associated water licence
after show cause process** 14
15

(1) This section applies to an amendment of an 16
associated water licence by the chief executive 17
under section 132(1)(b) as applied by section 18
1250N. 19

(2) The amendment must not— 20

(a) increase the amount of underground water 21
that may be taken under the licence; or 22

(b) increase the daily rate or maximum rate per 23
second at which underground water may be 24
taken under the licence; or 25

(c) change the location of taking or interfering 26
with underground water under the licence; 27
or 28

(d) increase or change the interference with 29
underground water under the licence. 30

(3) Section 134(3) to (7) applies to the amendment as 31
if— 32

- (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) This section 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 2
(1) This section applies if—	3
(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	4 5 6 7 8 9 10 11
(b) the application was not decided before the commencement.	12 13
(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.	14 15 16
1250R Compliance with underground water rights on granting of licence	17 18
(1) This section applies if an application for an associated water licence is granted.	19 20
(2) Until all rights of review and appeal 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.	21 22 23 24 25 26
(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.	27 28 29 30
1250S Associated water licence taken to be water licence for particular provisions	31 32
An associated water licence is taken to be a water	33

[s 36]

licence for the purposes of the following provisions— 1
2

(a) section 369A; 3

(b) section 394A; 4

Note— 5

See, however, section 1250G. 6

(c) section 812; 7

(d) the Mineral Resources Act, section 334ZP(8) and (9). 8

1250T Consideration when making decisions about associated water licence 10
11

(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). 12
13
14
15

(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. 16
17
18
19

Note— 20

For subsection (2), see a purpose of the Act mentioned in section 2(1)(a)(i). 21
22

1250U Agreement between holder of mining tenure and water bore 23
24

(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— 25
26
27
28
29

(a) the holder of a mining tenure who is also the holder of an associated water licence; 30
31

(b) the bore owner of the water bore.	1	
(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.	2 3 4 5	
(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.	6 7 8 9	
Division 3	Other transitional provisions	10 11
(3) Section 201, after inserted section 1280A—		12
<i>insert—</i>		13
1280B Content of underground water impact report		14
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.		15 16 17 18
Division 4	Regulation-making power for transitional purposes	19 20