

Queensland



Environmental Protection Act 1994

ENVIRONMENTAL PROTECTION (WATER) POLICY 1997

**Reprinted as in force on 17 July 1997
(policy not amended up to this date)**

Reprint No. 1 *

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

* Minor differences in style between this reprint and another reprint with the same number are due to the conversion to another software program. The content has not changed.

Information about this reprint

This policy is reprinted as at 17 July 1997.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

See endnotes for information about when provisions commenced.

Queensland



ENVIRONMENTAL PROTECTION (WATER) POLICY 1997

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	5
2	Commencement	5
3	Definitions—dictionary	5
PART 2—APPLICATION AND PURPOSE OF POLICY		
4	Application of policy	5
5	Purpose of policy	6
6	How purpose of policy is to be achieved	6
PART 3—BASIC CONCEPTS		
7	Environmental values to be enhanced or protected	6
8	Indicators for environmental values	7
9	Water quality guidelines for indicators for environmental values	8
10	Protocols	8
PART 4—MANAGEMENT GOALS FOR WATERS		
11	Water quality objectives	9
12	Identifying environmental values etc. for waters	9
13	When environmental values are protected	10
PART 5—MANAGEMENT OF ACTIVITIES		
<i>Division 1—Preliminary</i>		
14	How administering authority may require certain action	11
<i>Division 2—Waste management evaluation</i>		
15	Waste management evaluation procedure	11

Division 3—Environmental management decisions

16	Waste water recycling	12
17	Waste water releases on land	12
18	Waste water releases to surface water	13
19	Stormwater management	14
20	Direct waste water release to ground waters	15
21	Incidental waste water release to ground waters	16
22	Construction of artificial wetlands for waste water treatment	17
23	Use of natural biological controls in treatment of waste water	17
24	Acid sulphate soils	18
25	Waste reception facilities for ships	18

Division 4—Monitoring

26	Monitoring particular releases	19
27	Impact monitoring	21

PART 6—MANAGEMENT OF CERTAIN SOURCES OF CONTAMINATION

28	Release of certain substances from ships into non-coastal waters	22
29	Release of sewage from ships into non-coastal waters	22
30	Disposal of rubbish from ships into non-coastal waters	23
31	Prohibition on deposit or release of certain things	23
32	Prohibition on build-up of sediment	24
33	On-site domestic waste water treatment systems	25

PART 7—ENVIRONMENTAL PLANS***Division 1—Preliminary***

34	Priorities and timetable for environmental plans	26
35	Purpose of policy to be considered	27
36	Time for development and implementation of environmental plans	27
37	Review of environmental plans	27
38	Compliance with part	27
39	Reporting	27

Division 2—Local government environmental plans

40	Sewage management	28
41	Trade waste management	29

42	Urban stormwater quality management	29
43	Water conservation	30
	<i>Division 3—Other environmental plans</i>	
44	Environmental water provisions	31
45	Protection of ground waters	32
	PART 8—MISCELLANEOUS	
	<i>Division 1—Functions of chief executive</i>	
46	Education and information	32
47	Ambient monitoring	33
	<i>Division 2—Miscellaneous</i>	
48	Amendment of certain provisions of policy	33
	PART 9—ASSESSMENT OF POLICY PERFORMANCE	
49	Review of policy	35
	SCHEDULE 1	
	ENVIRONMENTAL VALUES AND WATER QUALITY OBJECTIVES FOR WATERS	
	SCHEDULE 2	
	DICTIONARY	
	ENDNOTES	
1	Index to endnotes	43
2	Date to which amendments incorporated	43
3	Key	43
4	List of legislation	44

ENVIRONMENTAL PROTECTION (WATER) POLICY 1997

[reprinted as in force on 17 July 1997]

PART 1—PRELIMINARY

1 Short title

This policy may be cited as the *Environmental Protection (Water) Policy 1997*.

2 Commencement

Section 32¹ commences on 1 January 1998.

3 Definitions—dictionary

The dictionary² in schedule 2 defines particular words used in this policy.

PART 2—APPLICATION AND PURPOSE OF POLICY

4 Application of policy

This policy applies to all Queensland waters.

1 Section 32 (Prohibition on build-up of sediment)

2 In some subordinate legislation, definitions are contained in a dictionary that appears as the last schedule and forms part of the legislation—*Statutory Instruments Act 1992*, section 14 and *Acts Interpretation Act 1954*, section 14.

5 Purpose of policy

The purpose of this policy is to achieve the object of the Act in relation to Queensland waters.³

6 How purpose of policy is to be achieved

The purpose of this policy is to be achieved by providing a framework for—

- (a) identifying environmental values for Queensland waters; and
- (b) deciding and stating water quality guidelines and objectives to enhance or protect the environmental values; and
- (c) making consistent and equitable decisions about Queensland waters that promote efficient use of resources and best practice environmental management; and
- (d) involving the community through consultation and education, and promoting community responsibility.

PART 3—BASIC CONCEPTS

7 Environmental values to be enhanced or protected

(1) The “**environmental values**” of waters to be enhanced or protected under this policy are—

- (a) for a water in schedule 1, column 1—the environmental values stated in the document opposite the water in schedule 1, column 2; or
- (b) for another water—the qualities in subsection (2).

(2) The qualities are—

- (a) if the water—

3 Under section 3 of the Act, the object of the Act 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**”).

- (i) is a pristine water—biological integrity of a pristine aquatic ecosystem; or
- (ii) is not a pristine water—biological integrity of a modified aquatic ecosystem; and
- (b) suitability for recreational use; and
- (c) suitability for minimal treatment before supply as drinking water;⁴ and
- (d) suitability for agricultural use; and
- (e) suitability for industrial use.

(3) However, if a natural property of the water precludes enhancement or protection of a particular environmental value, subsection (1)(b) does not apply to the value.

(4) For subsection (1)(a), a document is taken to state environmental values for a water if it states 1 or more values (however described) that are equivalent to a quality or qualities in subsection (2).

8 Indicators for environmental values

(1) An “**indicator**” for an environmental value is a property that is able to be measured or decided in a quantitative way.

Examples—

The concentration of chromium, pH value and Secchi disc clarity are commonly used indicators.

(2) The following documents are used to decide the indicators for an environmental value for a water—

- (a) site specific documents;
- (b) the AWQ guidelines;
- (c) documents published by a recognised entity.

4 For drinking water guidelines that apply to water after it has been treated or is to be used for drinking—see the guidelines produced by the Department of Health or the Australian Drinking Water Guidelines published jointly by the National Health and Medical Research Council, ANZECC and ARMCANZ.

9 Water quality guidelines for indicators for environmental values

(1) “**Water quality guidelines**” are numerical concentration levels or statements for indicators that protect a stated environmental value.

(2) The following documents are used to decide the water quality guidelines for an environmental value for a water—

- (a) site specific documents;
- (b) the AWQ guidelines;
- (c) documents published by a recognised entity.

(3) To the extent of any inconsistency between the documents for a particular water quality guideline, the documents are to be used in the order in which they are listed in subsection (2).

10 Protocols

(1) A “**protocol**” is a procedure to be followed in—

- (a) making tests and measurements; or
- (b) taking samples; or
- (c) preserving and storing samples; or
- (d) performing analyses on samples; or
- (e) performing statistical analyses of the results of sample analyses and interpreting the results.

(2) For this policy, the following documents are used to decide protocols—

- (a) the Water Quality Sampling Manual, 2nd edition, February 1995 published by the department;⁵
- (b) the AWQ guidelines;
- (c) Australian Standards;
- (d) documents published by a recognised entity.

(3) To the extent of any inconsistency between the documents, the documents are to be used in the order in which they are listed in subsection (2).

⁵ A copy of the manual may be purchased at the department’s central office at 160 Ann Street, Brisbane.

PART 4—MANAGEMENT GOALS FOR WATERS

11 Water quality objectives

(1) The water quality objectives for a water in schedule 1, column 1 are—

- (a) the objectives stated in the document opposite the water in schedule 1, column 2; or
- (b) if water quality objectives for the water are not stated in the document—the set of water quality guidelines which will protect all environmental values stated in the document.

(2) The water quality objectives for a water that is not in schedule 1 are the set of water quality guidelines for all indicators that will protect all environmental values for the water.

(3) However, water quality objectives do not apply to—

- (a) water in swimming pools; and
- (b) drinking water in a domestic water supply system, including, for example, water in a local government or privately owned water supply system; and
- (c) waste water in a storage including, for example, a sewage lagoon, mine tailings dam, irrigation tailwater dam and piggery or dairy waste water pond; and
- (d) water in a pond used for aquaculture; and
- (e) water within an initial mixing zone or attenuation zone.

12 Identifying environmental values etc. for waters

(1) The chief executive may develop a plan to decide priorities for identifying environmental values and water quality objectives for waters not mentioned in schedule 1.

(2) In deciding the priority in which waters will be assessed, the chief executive must consider—

- (a) the views of the chief executive (water resources) and chief executive (fisheries); and
- (b) the views of the community; and

- (c) the demonstrated, or potential, adverse environmental impacts on waters from industrial or urban development or agriculture.

(3) The chief executive, in cooperation with the chief executive (water resources) and chief executive (fisheries), may decide the following for a water—

- (a) the environmental values to be protected in the water;
- (b) the water quality objectives for the water;
- (c) ways to improve the quality of the water.

(4) The chief executive may decide the matters in subsection (3) for a particular water only if—

- (a) there has been appropriate consultation with the community; and
- (b) there has been consideration of the economic and social impacts of protecting environmental values in the water.

(5) In addition, the chief executive may decide water quality objectives for a water that provide a lower level of protection of the environmental values for the water than the water quality guidelines mentioned in section 11(2)⁶ only if—

- (a) the adoption of the water quality guidelines would involve economic or social impacts that are unacceptable to the community; and
- (b) the water quality objectives are an improvement on existing water quality.

(6) After deciding the matters in subsection (3) for a particular water, the chief executive may develop a document about the matters for the water for inclusion in schedule 1.

13 When environmental values are protected

For this policy, the environmental values for a water are protected if the measures for all indicators do not exceed the water quality guidelines stated for the indicators.

6 Section 11 (Water quality objectives)

PART 5—MANAGEMENT OF ACTIVITIES

Division 1—Preliminary

14 How administering authority may require certain action

If, under this part, an administering authority is authorised to require a relevant person to take certain action, the administering authority may require the person to take the action by—

- (a) for an environmental management decision about an environmental authority—imposing a condition on the authority; or
- (b) for an environmental management decision about an environmental management program—imposing a condition on the approval of the program; or
- (c) for an environmental management decision about an environmental protection order—including the requirement in the order.

Division 2—Waste management evaluation

15 Waste management evaluation procedure

(1) This section applies if an administering authority is making an environmental management decision about an activity that may affect a water.

(2) The administering authority must consider using the following waste management evaluation procedure—

- (a) **step 1**—evaluate waste prevention options and require the relevant person to implement appropriate waste prevention;
- (b) **step 2**—if waste prevention does not, or is not likely to, eliminate all waste water, evaluate waste water treatment and waste water recycling options and require the relevant person to implement appropriate treatment and recycling;
- (c) **step 3**—if waste water treatment and waste water recycling does not, or is not likely to, eliminate all waste water, evaluate waste

water treatment and waste water disposal options of release on land, release to sewer and release to a surface water and require the relevant person to implement appropriate treatment and disposal;

- (d) **step 4**—if waste water treatment and waste water disposal does not, or is not likely to, eliminate all waste water, evaluate waste water treatment and waste water disposal to ground water and require the relevant person to implement appropriate treatment and disposal.

Division 3—Environmental management decisions

16 Waste water recycling

(1) This section applies if an administering authority is making an environmental management decision about an activity involving waste water recycling.

(2) The administering authority must consider—

- (a) the water quality objectives for waters affected by the recycling; and
- (b) the maintenance of acceptable health risks.

17 Waste water releases on land

(1) This section applies if an administering authority is making an environmental management decision about an activity involving the release of waste water on land.

(2) The administering authority must consider the following—

- (a) the existing quality of waters that may be affected by the release and the water quality objectives for the waters;
- (b) available land and wet weather storage;
- (c) the cumulative effect of the release concerned and any other releases of contaminants to waters that could be affected by the release known to the administering authority;
- (d) the need to protect soil and plants from damage;
- (e) the maintenance of acceptable health risks;

- (f) any applicable code of practice approved under section 219 of the Act.

(3) To protect an environmental value, the administering authority may require the relevant person to release the waste water to an artificial wetland for the removal of nutrients from the water.

18 Waste water releases to surface water

(1) This section applies if an administering authority is making an environmental management decision about an activity involving the release of waste water (other than contaminated stormwater) to a surface water.

(2) The administering authority must consider the following—

- (a) whether the size of the initial mixing zone will adversely affect an environmental value, especially biological integrity and suitability for recreational use;
- (b) whether concentrations of contaminants in the initial mixing zone are acutely toxic to the biota;
- (c) the existing quality of the surface water;
- (d) the cumulative effect of the release concerned and any other releases of contaminants to the surface water known to the administering authority;
- (e) future releases to the surface water known to the administering authority;
- (f) the water quality objectives for waters outside the initial mixing zone.

(3) The administering authority may require the relevant person to submerge an outfall to the surface water if it will help to—

- (a) protect the visual recreational use of the water; or
- (b) better achieve the water quality objectives for the water.

(4) To protect an environmental value, the administering authority may—

- (a) require the relevant person to meet a minimum initial dilution level under stated tidal or flow conditions by—
 - (i) increasing the depth of submergence of an outfall; or

- (ii) using diffusers; or
- (b) apply a limit to the size of the initial mixing zone; or
- (c) require the relevant person to use an alternative outfall location;
or
- (d) require the relevant person to release waste water—
 - (i) if the release is into coastal waters—only during stated parts of the tide; or
 - (ii) if the release is into non-coastal waters—only above stated freshwater flows.

19 Stormwater management

(1) This section applies if an administering authority is making an environmental management decision about an activity involving, or likely to involve, the release of contaminated stormwater to a roadside gutter, a stormwater drain or a surface water.

(2) The administering authority must decide whether the management of stormwater releases from the activity is adequate to prevent or minimise environmental harm in waters affected by the release.

(3) In making its decision, the administering authority must consider the following—

- (a) the existing quality of a water that may be affected by the release and the water quality objectives for the water;
- (b) the cumulative effect of the release in question and any other releases of contaminants to the water known to the administering authority;
- (c) the technology, management and nature of processes being, or to be, used in carrying out the activity;
- (d) any relevant urban stormwater quality management plan prepared under section 42;⁷
- (e) the topography of the locality and local climatic conditions;
- (f) if the activity involves exposing or disturbing soil—the soil type, its characteristics and the way it is managed.

7 Section 42 (Urban stormwater quality management)

(4) If the administering authority decides the management of stormwater releases from the activity is not likely to be adequate to prevent or minimise environmental harm, the administering authority may require the relevant person—

- (a) to implement waste prevention measures, including, for example—
 - (i) diverting upstream stormwater run off away from contaminated areas; and
 - (ii) minimising the size of contaminated areas; and
 - (iii) covering, paving or roofing contaminated areas; and
 - (iv) cleaning contaminated areas without using water; or
- (b) to install control or treatment measures, including, for example, artificial wetlands, buffers that improve waste water quality, bunding, first flush stormwater diversion systems, oil separators and silt and rubbish traps; or
- (c) if the activity involves exposing or disturbing soil—
 - (i) to implement waste prevention measures, including, for example, minimising the amount of soil being exposed or disturbed by staging works associated with the activity and revegetating or mulching exposed or disturbed areas as quickly as possible; or
 - (ii) to install control or treatment measures including, for example, buffers that improve waste water quality, silt fences and settling basins.

20 Direct waste water release to ground waters

(1) This section applies if an administering authority is making an environmental management decision about an activity involving the direct release of waste water to ground water.

Example of direct release of waste water to ground water—

The release of waste water to an aquifer or other ground water by way of a well, deep-well injection or bore would be a direct release of waste water to ground water.

(2) The administering authority must consider the following—

- (a) whether the size of the attenuation zone will adversely affect an environmental value, especially in the draw-down zones of any

bores used to obtain water for irrigation, stock or supply for drinking;

- (b) the existing quality of the ground water;
- (c) the cumulative effect of the release concerned and any other releases to the ground water known to the administering authority;
- (d) the water quality objectives for waters outside the attenuation zone.

(3) The administering authority may decide to authorise the release of waste water to a ground water that results in the water quality objectives for waters outside the attenuation zone not being met only if—

- (a) the release is to a confined aquifer; and
- (b) the existing quality of the ground water is extremely poor; and
- (c) the ground water is a long way from the surface; and
- (d) there is no foreseeable environmental value for, or commercial use of, the ground water; and
- (e) there is no likely ecological link with another water.

(4) To protect an environmental value, the administering authority may require a limit to the size of the attenuation zone.

21 Incidental waste water release to ground waters

(1) This section applies if an administering authority is making an environmental management decision about an activity involving, or likely to involve, the incidental release of waste water to ground water.

(2) The administering authority must consider the following—

- (a) the existing quality of, and the water quality objectives for, the ground water or a surface water likely to be affected by the release;
- (b) the cumulative effect of the release concerned and any other releases of waste water to the ground water known to the administering authority;
- (c) requiring the relevant person to minimise or prevent infiltration of waste water to the ground water.

22 Construction of artificial wetlands for waste water treatment

(1) This section applies if an administering authority is making an environmental management decision about an activity involving the construction of an artificial wetland for waste water treatment in a natural wetland.

(2) The administering authority must decide whether the existing ecological values, or the ecological values likely to exist after rehabilitation, of the natural wetland are so significant that the artificial wetland should not be constructed in the natural wetland.

(3) In making its decision, the administering authority must consider the following—

- (a) whether the natural wetland is of local, regional or national importance using wetlands criteria given in the ANCA Directory;
- (b) whether the natural wetland no longer functions as a wetland because its ecological values have been degraded as evidenced by—
 - (i) the substantial loss of invertebrates from the benthic region; or
 - (ii) the substantial invasion by exotic plants so that native plants can no longer compete; or
 - (iii) the wetland is no longer fulfilling ecological functions including, for example, providing breeding, feeding or roosting sites for resident or migratory aquatic biota and birds;
- (c) whether the degradation could be reversed by cost-effective remedial or rehabilitation measures;
- (d) potential improvements to downstream water quality through building the artificial wetland;
- (e) whether there is an alternative site for construction of the artificial wetland.

23 Use of natural biological controls in treatment of waste water

(1) This section applies if an administering authority is making an environmental management decision about an activity involving the use of natural biological controls in the treatment of waste water.

(2) The administering authority must consider—

- (a) any safety information available about the controls and the recommended dose levels for the controls; and
- (b) the likely persistence and effect of the controls on the environment; and
- (c) whether there are any potential pathogens in the controls.

24 Acid sulphate soils

(1) This section applies if an administering authority is making an environmental management decision about an activity involving the exposure or disturbance of acid sulphate soils or the lowering of a watertable associated with acid sulphate soils.

(2) The administering authority must consider requiring the relevant person to implement appropriate management actions, including, for example, the following—

- (a) avoiding or minimising the disturbance of the soils;
- (b) neutralising the soils;
- (c) managing watertable fluctuations, freshwater flows and tidal water levels to ensure the maintenance of adequate water cover over the soils;
- (d) burying neutralised soils on the site under clean fill;
- (e) burying soils under permanent water or a permanent watertable so the soils are not exposed to oxygen;
- (f) treating or disposing of leachate and run off in an appropriate way.

25 Waste reception facilities for ships

(1) This section applies if an administering authority is making an environmental management decision about an activity involving a place for the mooring, docking or berthing of ships.

(2) The administering authority must consider requiring the relevant person to provide waste reception facilities.

(3) In making its decision, the administering authority must consider the following—

- (a) waste reception facilities should be required only for wastes that usually need to be released from ships using the place;
- (b) the type of waste reception facilities required depends on the activities for which the place is used and may include, for example—
 - (i) sewage pump-out stations or other fixed onshore facilities; and
 - (ii) vacuum tankers for collection of oil or sewage or other mobile onshore facilities; and
 - (iii) an adequate number of easily accessible onshore rubbish bins and toilets; and
 - (iv) mobile barges for oil, sewage and rubbish collection; and
 - (v) quarantine facilities;
- (c) larger ships may be able to keep wastes on-board and treat or dispose of the wastes at reception facilities at their home port or elsewhere;
- (d) any relevant quarantine laws about the reception from overseas ships of waste particularly animal waste, drainage from sick bays or medical facilities, galley scraps, medical wastes and organic refuse;
- (e) any relevant obligations under MARPOL 73/78 in relation to annexes I, II and V.

Division 4—Monitoring

26 Monitoring particular releases

(1) This section applies if an administering authority is making an environmental management decision about an activity involving the release of waste water on land or to a water.

(2) The administering authority must consider requiring the relevant person to monitor the waste water releases.

(3) In making its decision, the administering authority must consider the following—

- (a) whether monitoring is needed—

- (i) to decide if a condition of an environmental authority or environmental management program or an environmental protection order is being complied with; or
- (ii) to decide if a system to prevent contamination of land or waters by waste water is required or an existing system is functioning properly; or
- (iii) because of the risk, and likely consequences, of the system failing;
- (b) the variability of waste water released from the activity;
- (c) the protocols for monitoring the releases;
- (d) requiring the relevant person to use continuous monitoring equipment where it is reasonable and practicable.

(4) If the administering authority requires the relevant person to carry out monitoring, the administering authority must consider the following factors in deciding the frequency of the monitoring and the indicators to be monitored—

- (a) the type of activity to be carried out;
- (b) the risk of harm to environmental values involved in carrying out the activity;
- (c) the frequency of monitoring needed—
 - (i) to decide if a condition of an environmental authority or environmental management program or an environmental protection order is being complied with; or
 - (ii) to decide if a system to prevent contamination of land or waters by waste water is functioning properly; or
 - (iii) because of the risk and potential consequences of the system failing; or
 - (iv) to ascertain the variability of waste water released from the activity;
- (d) any factors specific to the site where the activity is, or will be, carried out.

27 Impact monitoring

(1) This section applies if an administering authority is making an environmental management decision about an activity involving the release, or potential release, of waste water on land or to a water.

(2) The administering authority must consider requiring the relevant person to carry out impact monitoring of the effect of the waste water releases.

(3) In making its decision, the administering authority must—

- (a) consider the protocols for monitoring the land or water to which the waste water is released; and
- (b) take into account impact monitoring is generally only required—
 - (i) for large or hazardous activities with potential for causing significant environmental harm; or
 - (ii) to measure the size of the initial mixing zone or attenuation zone from a large or complicated release; or
 - (iii) to verify the conclusions of an environmental impact assessment, study or report; or
 - (iv) to decide future disposal strategies; or
 - (v) if there is concern over levels of a particular contaminant in a water and there are known activities that release that contaminant to the water.

(4) If the administering authority requires the relevant person to carry out impact monitoring, an administering authority must consider the following factors in deciding the frequency of the monitoring and the indicators to be monitored—

- (a) the type of activity to be carried out;
- (b) the risk of harm to environmental values involved in carrying out the activity;
- (c) the water quality objectives for a water affected by the activity;
- (d) any factors specific to the site where the activity is, or will be, carried out.

PART 6—MANAGEMENT OF CERTAIN SOURCES OF CONTAMINATION

28 Release of certain substances from ships into non-coastal waters

(1) A person must not release from a ship into non-coastal waters—

- (a) oil; or
- (b) a noxious liquid substance; or
- (c) a harmful substance.

Maximum penalty—40 penalty units.

(2) However, a person does not commit an offence against subsection (1) if the release was authorised under an emergency direction.

(3) If a person is charged with an offence against subsection (1), it is a defence to the charge for the person to prove—

- (a) the release was necessary to secure the safety of the ship or to save someone's life; or
- (b) the release resulted from damage, other than wilful damage, to the ship or its equipment and all reasonable precautions were taken after the damage happened or the release was discovered to prevent or minimise the release.

29 Release of sewage from ships into non-coastal waters

(1) A person must not release sewage into non-coastal waters from a ship that has a sewage holding tank or is required by law to be fitted with a sewage holding tank.

Maximum penalty—40 penalty units.

(2) A person must not release sewage from a ship into non-coastal waters at a place for mooring, docking or berthing ships.

Maximum penalty—20 penalty units.

(3) If a person is charged with an offence against subsection (1) or (2), it is a defence to the charge for the person to prove—

- (a) the release happened because of damage to the ship or its equipment; and

- (b) all reasonable precautions were taken before and after the damage happened to prevent or minimise the escape of the sewage.

30 Disposal of rubbish from ships into non-coastal waters

(1) A person must not dispose of rubbish from a ship into non-coastal waters.

Maximum penalty—20 penalty units.

(2) If a person is charged with an offence against subsection (1), it is a defence to the charge for the person to prove—

- (a) the disposal was made to secure the safety of the ship and persons on board the ship or to save someone's life; or
- (b) the disposal resulted from damage to the ship or its equipment and all reasonable precautions were taken before and after the damage happened to prevent or minimise the disposal; or
- (c) if the rubbish is synthetic fishing net or synthetic material used in the repair of a synthetic fishing net—
 - (i) the disposal was the accidental loss of the net or material; and
 - (ii) all reasonable precautions were taken to prevent the loss; and
 - (iii) all reasonable attempts were made to recover the net or material.

31 Prohibition on deposit or release of certain things

(1) This section applies to the following things—

- (a) rubbish;
- (b) scrap metal, motor vehicle parts, motor vehicle bodies or tyres;
- (c) building waste;
- (d) sawdust;
- (e) solid or liquid waste from an on-site domestic waste water treatment system;
- (f) cement or concrete;

- (g) a degreasing agent, paint, varnish or paint thinner;
- (h) any manufactured product, or any by-product or waste from a manufacturing process, that has a pH less than 6 or greater than 9;
- (i) an insecticide, herbicide, fungicide or other biocide;
- (j) oil.

(2) A person must not deposit or release a thing to which this section applies—

- (a) into a roadside gutter, stormwater drain or a water; or
- (b) in a place where it could reasonably be expected to move or be washed into a roadside gutter, stormwater drain or a water.

Maximum penalty—

- (a) for a thing mentioned in subsection (1)(a) to (d)—20 penalty units; or
- (b) for a thing mentioned in subsection (1)(e) to (j)—40 penalty units.

(3) However, a person does not commit an offence against subsection (2) if the deposit or release was authorised under an environmental authority, environmental management program, environmental protection order or emergency direction.

(4) If a person is charged with an offence against subsection (2), it is a defence to the charge for the person to prove—

- (a) the deposit or release happened while carrying out a lawful activity; and
- (b) the person complied with the general environmental duty either by complying with the relevant code of practice (if any) or in some other way.

32 Prohibition on build-up of sediment

(1) A person must not—

- (a) *release stormwater run off into a roadside gutter, stormwater drain or a water that results in the build-up of sand, silt or mud in the gutter, drain or water; or*
- (b) *deposit sand, silt or mud—*

- (i) *in a roadside gutter, stormwater drain or a water; or*
- (ii) *in a place where it could reasonably be expected to move or be washed into a roadside gutter, stormwater drain or water and result in a build-up of sand, silt or mud in the gutter, drain or water.*

Maximum penalty—20 penalty units.

(2) However, a person does not commit an offence against subsection (1) if the release or deposit was authorised under an environmental authority, environmental management program, environmental protection order or emergency direction.

(3) If a person is charged with an offence against subsection (1), it is a defence to the charge for the person to prove—

- (a) the release or deposit happened while carrying out a lawful activity; and*
- (b) the person complied with the general environmental duty either by complying with the relevant code of practice (if any) or in some other way.⁸*

33 On-site domestic waste water treatment systems

(1) This section applies if—

- (a) a local government is preparing or amending a planning scheme or considering a rezoning or development application; and
- (b) under the scheme or application on-site domestic waste water treatment systems are proposed to be used in a locality.

(2) The local government must consider the following—

- (a) the number of existing on-site domestic waste water treatment systems in the locality;
- (b) the cumulative effect of the proposed and existing systems in the locality on water quality objectives for waters in the locality;
- (c) the sizes of the lots and the soil types, land slopes, hydrology and hydrogeology in the locality;

⁸ This provision had not commenced on or before the reprint date.

- (d) the proximity of the systems to surface waters and ground waters in the locality;
- (e) the rainfall and other climatic conditions of the locality;
- (f) the existing quality of waters in the locality and the water quality objectives for the waters;
- (g) any relevant ground water protection plan prepared under section 45.⁹

PART 7—ENVIRONMENTAL PLANS

Division 1—Preliminary

34 Priorities and timetable for environmental plans

(1) If a local government is required to develop more than 1 environmental plan about a matter under this part, it must—

- (a) prioritise the plans to be developed and implemented about the matter; and
- (b) determine a timetable for developing and implementing the plans.

(2) The chief executive (water resources) must, for a matter for which the chief executive is required to develop environmental plans under this part—

- (a) prioritise the plans to be developed and implemented about the matter; and
- (b) determine a timetable for developing and implementing the plans.

⁹ Section 45 (Protection of ground waters)

35 Purpose of policy to be considered

In developing and implementing the environmental plans, the local government or chief executive (water resources) must consider the purpose of this policy and how the purpose is to be achieved.¹⁰

36 Time for development and implementation of environmental plans

Within 5 years after the commencement of this policy, the local government or chief executive (water resources) must develop and start implementing at least 1 environmental plan for each matter.

37 Review of environmental plans

The local government or chief executive (water resources) must regularly review—

- (a) the priorities and timetable for the development and implementation of environmental plans; and
- (b) after a plan has been developed and implemented—the performance of the plan, including its economic and social impacts.

38 Compliance with part

A local government may achieve compliance with this part by implementing a plan prepared by it that substantially complies with this policy, even though the plan was not originally prepared for this policy.

39 Reporting

(1) A local government that is required to develop and implement environmental plans must give the chief executive—

- (a) a report on the development and implementation of plans within 3 years after the commencement of this policy; and

¹⁰ Sections 5 (Purpose of policy) and 6 (How purpose of policy is to be achieved)

- (b) after the local government has started implementing an environmental plan—a report on the plan’s implementation within 2 months after the end of each financial year.
- (2) However, subsection (1) does not apply to a local government that—
- (a) reports to the chief executive (water resources) about another plan; and
 - (b) notifies the chief executive of the department within 3 years of the commencement of this policy of its intention to implement the other plan to achieve compliance under this part for the environmental plan and report to the chief executive (water resources).
- (3) The chief executive (water resources) must give the chief executive of the department—
- (a) a report about the development and implementation of its environmental plans within 3 years after the commencement of this policy; and
 - (b) after the chief executive has started implementing an environmental plan—a report on the plan’s implementation 2 months after the end of each financial year.

Division 2—Local government environmental plans

40 Sewage management

- (1) A local government that operates a sewerage system must develop and implement an environmental plan about sewage management that minimises unnecessary flows entering the system.
- (2) In developing its plan, the local government must consider—
- (a) the water quality objectives for a water to which a release of waste water may occur; and
 - (b) the maintenance of acceptable health risks.
- (3) The local government must consider including the following measures in its plan—
- (a) ways of reducing infiltration to sewers;
 - (b) ways of avoiding unintended stormwater inflow to sewers;

- (c) alternatives to expansion or remediation of an existing system and to construction of a new system, including, for example—
 - (i) chemical and composting toilets; or
 - (ii) domestic on-site waste water treatment systems and recycling or disposal of waste water.

41 Trade waste management

(1) A local government that operates a sewerage system must develop and implement an environmental plan about trade waste management that controls trade wastes entering the system.

(2) The local government must consider including in its plan—

- (a) requirements for waste prevention, recycling and treatment measures before the release of trade waste to sewer may be authorised; and
- (b) provisions about the effect of trade waste on—
 - (i) the recycling of waste water and sludge; and
 - (ii) the materials used to construct the sewerage system; and
 - (iii) the health and safety of people working on the sewerage system; and
 - (iv) the treatment capabilities of sewage treatment plants.

42 Urban stormwater quality management

(1) A local government that has an urban stormwater system must develop and implement an environmental plan about urban stormwater quality management that improves the quality of stormwater in a way that is consistent with the water quality objectives for waters affected by the system.

(2) The local government must consider including in its plan—

- (a) measures to minimise the contamination of waters by stormwater, maximise the infiltration of water into the ground, reduce the velocity of stormwater and remove contaminants from stormwater, including, for example, the following—
 - (i) flow rate mitigation, erosion control and infiltration areas;

- (ii) grassed or vegetated drainage lines, vegetated water buffers and conservation or restoration of riparian vegetation;
- (iii) artificial wetlands, gross contaminant traps, retention basins and trash racks; and
- (b) planning and design approaches for its stormwater system that have regard to the needs of the local community, including, for example, the following—
 - (i) minimising ecological impacts on waters in the locality;
 - (ii) acceptable health risks, aesthetics, protection from flooding, public safety and other social concerns;
 - (iii) making use of stormwater for recycling and water conservation;
 - (iv) making use of drainage corridors for improved recreational values and open space or landscape areas; and
- (c) investigation of opportunities to build contaminant control measures and re-establish riparian vegetation and aesthetically pleasing environments in degraded drainage corridors; and
- (d) integration of the plan with catchment based planning and land use planning; and
- (e) implementation of viable alternatives to the release of stormwater through outlets across beaches or into waters with poor circulation.

43 Water conservation

(1) A local government that operates a water supply system must develop and implement an environmental plan about water conservation that improves water use efficiency in the system.

(2) In developing its plan, the local government must consider—

- (a) the water quality objectives for a water to which a release of waste water may occur; and
- (b) the maintenance of acceptable health risks.

(3) The local government must consider including the following measures in its plans—

- (a) water restrictions, including, for example, restricted garden watering;
- (b) the use of rainwater tanks and waste water recycling;
- (c) ways of reducing water usage in industrial processes and household appliances, including, for example, low flush toilets and water efficient appliances;
- (d) water pricing policies, tariff structures, water meters and financial incentives and concessions to reduce water usage;
- (e) voluntary water reduction schemes and community education and involvement in water conservation;
- (f) detection and control of leaks in its water supply system.

Division 3—Other environmental plans

44 Environmental water provisions

(1) The chief executive (water resources) must develop and implement environmental plans about environmental water provisions for Queensland waters.

(2) In developing the plans, the chief executive must consider the following—

- (a) ecological values of the waters and environmental water requirements;
- (b) protecting the environment in future water allocation decisions;
- (c) reallocating water from water storages to provide water to the environment;
- (d) management of water allocations;
- (e) monitoring to ensure environmental water provisions are maintaining ecological values of the waters;
- (f) further research to improve the understanding of environmental water requirements;

- (g) involving relevant environmental, social and economic stakeholders in decisions about providing water to the environment;
- (h) possible approaches to the plan's implementation.

45 Protection of ground waters

(1) The chief executive (water resources) must develop and implement environmental plans about protecting ground waters.

(2) The chief executive must consider including the following in the plans—

- (a) provisions about ground water management;
- (b) vulnerability maps;
- (c) aquifer classification systems;
- (d) provisions about wellhead protection.

PART 8—MISCELLANEOUS

Division 1—Functions of chief executive

46 Education and information

(1) The chief executive, in cooperation with the chief executive (water resources) and other relevant entities, must promote a coordinated strategy to educate and inform the community about water quality management issues.

(2) The chief executive's role in developing the strategy is to—

- (a) identify water quality management issues not being adequately addressed and liaise with relevant entities to address the issues; and
- (b) identify any overlap of functions and activities and minimise duplication of resources.

(3) The strategy must include—

- (a) identifying and prioritising water quality management issues; and
- (b) identifying persons and organisations requiring education and information about the issues; and
- (c) developing and implementing education programs about water quality management issues for persons and organisations identified in paragraph (b).

(4) An administering authority must promote community education and information about water quality management issues for which it is responsible.

47 Ambient monitoring

(1) If the chief executive carries out ambient monitoring of waters to assess the state of Queensland waters the chief executive must—

- (a) prepare a report about the results of the monitoring; or
- (b) include the results in an appropriate state of the environment report.

(2) If practicable, the report must include a comparison of ambient monitoring results with the water quality objectives for, and freshwater flows to, the waters during the time of the monitoring.

(3) For a report prepared under this section, if the measure of an indicator does not comply with a water quality guideline because of a natural property of the water, the measure of the indicator is taken to comply with the water quality guideline.

Division 2—Miscellaneous

48 Amendment of certain provisions of policy

(1) An amendment of the following provisions is an amendment to which section 32(2)¹¹ of the Act applies—

- (a) section 8 (Indicators for environmental values);

11 Section 32 (Amendment and repeal of policies) of the Act

- (b) section 9 (Water quality guidelines for indicators for environmental values);
- (c) section 10 (Protocols);
- (d) section 11 (Water quality objectives);
- (e) section 31 (Prohibition on deposit or release of certain things);
- (f) section 39 (Reporting);
- (g) schedule 1 (Environmental values and water quality objectives for waters);
- (h) schedule 2 (Dictionary), definitions “ANCA Directory” and “AWQ guidelines”.

(2) However, the Minister may recommend to the Governor in Council the approval of an environmental protection policy (the “**later policy**”) that amends a provision mentioned in subsection (1) (other than an amendment mentioned in subsection (3)) only if the Minister is satisfied—

- (a) there has been appropriate consultation about the provision as amended by the later policy; and
- (b) there has been consideration of the economic and social impacts of the provision as amended by the later policy.

(3) Also, the Minister may recommend to the Governor in Council the approval of an environmental protection policy that amends schedule 1 by inserting a new document only if the Minister is satisfied—

- (a) there has been appropriate consultation about the document; and
- (b) there has been consideration of the economic and social impacts of protecting environmental values for the water mentioned in the document; and
- (c) for a document that states water quality objectives that provide a lower level of protection of environmental values for the water than the water quality guidelines mentioned in section 11(2)¹²—
 - (i) the water quality guidelines would involve economic or social impacts that are unacceptable to the community; and
 - (ii) the water quality objectives in the document are an improvement on existing water quality.

12 Section 11 (Water quality objectives)

PART 9—ASSESSMENT OF POLICY PERFORMANCE

49 Review of policy

(1) In preparing a report under section 33(2)¹³ of the Act, the chief executive must assess this policy's environmental effectiveness and economic efficiency using measurable performance indicators.

(2) The chief executive must consider whether it is appropriate to use the following performance indicators—

- (a) the number of waters for which ambient monitoring results indicate the waters meet the water quality objectives and show an improvement in water quality;
- (b) the increase in the number of holders of environmental authorities who have adopted waste prevention and recycling measures, either fully or partly, in preference to disposal;
- (c) the increase in the number of holders of environmental authorities who are complying with authority conditions and have improved the quality of waste water releases;
- (d) the performance indicators developed under environmental plans under part 7¹⁴ including, for example, increased kilometres of sewers inspected and maintained, per capita reductions in water usage and reduced number of sewage overflows per unit length of sewer;
- (e) the number of waters for which a document is included in schedule 1;
- (f) the number of protocols that have been developed by the chief executive and included in section 10;¹⁵
- (g) the number of education programs developed by the chief executive under section 46¹⁶ and the issues involved, the target groups and the success of the programs;
- (h) the development of Queensland water quality guidelines by the chief executive.

13 Section 33 (Review of policies) of the Act

14 Part 7 (Environmental plans)

15 Section 10 (Protocols)

16 Section 46 (Education and information)

SCHEDULE 1**ENVIRONMENTAL VALUES AND WATER QUALITY
OBJECTIVES FOR WATERS**

sections 7 and 11

	Column 1	Column 2
	Water	Document
Name	Basin/Stream No.	
Trinity Inlet	111/10	Trinity Inlet Management Plan prepared by the Trinity Inlet Management Plan Steering Committee ^a

- a. A copy of the plan may be purchased from the Program Coordinator, Trinity Inlet Management Program, PO Box 6896, Cairns Q 4870.

SCHEDULE 2**DICTIONARY**

section 3

“acid sulphate soil” means—

- (a) a soil or soil horizon that contains sulphides; or
- (b) an acidic soil or acidic soil horizon affected by the oxidation of sulphides.

“agricultural use”, of water, means the use of water in carrying out an agricultural activity.

Examples—

Irrigating crops, watering stock and farm water supply (other than drinking water) are examples of agricultural use of water.

“ambient monitoring”, of a water, means measuring the general quality of the water without specifically measuring the effect of particular releases of contaminants into the water.

“ANCA Directory” means the Directory of Important Wetlands in Australia, 2nd edition published by the Australian Nature Conservation Agency in 1996.

“ANZECC” means the Australian and New Zealand Environment and Conservation Council.

“ARMCANZ” means the Agriculture and Resource Management Council of Australia and New Zealand.

“artificial wetlands” means wetlands that are not natural wetlands.

“attenuation zone” means the area around a release to ground water in which the concentration of contaminants in the release is reduced to ambient levels through physico-chemical and microbiological processes.

“Australian Standards” means the standards published by Standards Australia.

“AWQ guidelines” means the Australian Water Quality Guidelines for Fresh and Marine Waters published by ANZECC in 1992.

SCHEDULE 2 (continued)

“biological integrity”, of a water, means the water’s ability to support and maintain a balanced, integrative, adaptive community of organisms having a species composition, diversity and functional organisation comparable to that of the natural habitat of the locality in which the water is situated.

Examples—

The following are examples of biological integrity of a water—

- (a) the intrinsic value of pristine or modified aquatic ecosystems;
- (b) its ability to support associated wildlife;
- (c) its ability to produce food for human consumption.

“buffer” means the area between a place where contaminants are stored, used or produced and roadside gutters, stormwater drains or waters.

“chief executive (fisheries)” means the chief executive of the department in which the *Fisheries Act 1994* is administered.

“chief executive (water resources)” means the chief executive of the department in which the *Water Resources Act 1989* is administered.

“coastal waters” has the meaning under the Marine Pollution Act.

“contaminated stormwater” means stormwater that contains a contaminant.

“cooperative research centre” means a cooperative research centre funded by the Commonwealth.

“deposit” includes drop, leave, place or throw.

“draw-down zone”, of a bore, means the region in which there is a difference between the observed water level during pumping and water level when there is no pumping.

“environmental management decision” means a decision by an administering authority about an environmental authority, environmental management program or environmental protection order for an environmentally relevant activity or other activity.

“environmental values” see section 7.

“environmental water provisions” means the part of the environmental water requirements that can be met and include—

- (a) unregulated flows in rivers and water in wetlands and aquifers;
- and

SCHEDULE 2 (continued)

- (b) allocations or releases from storages; and
- (c) water in transit for other users.

“environmental water requirements” means patterns of seasonal water flows and levels that are needed to maintain the environment at a low level of risk of environmental harm.

“harmful substance” has the meaning under the Marine Pollution Act.

“impact monitoring”, of the release of a contaminant into a water, means measuring the effect of the release on the water’s quality.

“incidental release”, of waste water to ground water, means the release of waste water into ground waters by infiltration that happens incidental to carrying out an activity.

“indicator” see section 8.

“initial mixing zone” means an area where waste water mixes rapidly with surface water because of the momentum or buoyancy of the waste water and the turbulence of the surface water.

“Marine Pollution Act” means the *Transport Operations (Marine Pollution) Act 1995*.

“MARPOL 73/78” has the meaning under the Marine Pollution Act.

“minimal treatment”, of water, means—

- (a) coarse screening; or
- (b) coarse screening and disinfection.

“modified aquatic ecosystem” means an aquatic ecosystem that is, or has been, subject to human interference through—

- (a) releases (whether direct or indirect) into a water forming part of the ecosystem; or
- (b) activities in the water’s catchment area.

“natural biological controls” means naturally occurring bacteria, fungi or micro-organisms that are cultured and added to wastes in high numbers to breakdown contaminants.

“natural wetland” means a wetland existing in nature or formed by natural processes.

SCHEDULE 2 (continued)

“**noxious liquid substance**” has the meaning under the Marine Pollution Act.

“**NWQM Strategy**” means the National Water Quality Management Strategy developed by ANZECC and ARMCANZ.

“**oil**” has the meaning under the Marine Pollution Act.

“**on-site domestic waste water treatment system**” includes a septic tank and a trench or disposal area associated with an on-site domestic waste water treatment system.

“**primary contact recreational use**”, of a water, means full body contact with the water, including, for example, swimming, surfing, windsurfing, diving and waterskiing.

“**pristine aquatic ecosystem**” means an aquatic ecosystem that has not been, or is not, subject to human interference through—

- (a) releases (whether direct or indirect) into a water forming part of the ecosystem; or
- (b) activities in the water’s catchment area.

“**protocol**” see section 10.

“**recognised entity**” means—

- (a) the department; or
- (b) an environmental protection agency of the Commonwealth or a State; or
- (c) ANZECC; or
- (d) ARMCANZ; or
- (e) the Government Chemical Laboratory;¹⁷ or
- (f) the department in which the *Water Resources Act 1989* is administered; or
- (g) the department in which the *Fisheries Act 1994* is administered; or

¹⁷ The Government Chemical Laboratory is an entity within the department in which the *Health Act 1937* is administered.

SCHEDULE 2 (continued)

- (h) the United States Environmental Protection Agency or another environmental protection agency of a national government; or
- (i) a cooperative research centre; or
- (j) Commonwealth Scientific and Industrial Research Organisation; or
- (k) an Australian university.

“recreational use”, of a water, means—

- (a) primary contact recreational use of the water; or
- (b) secondary contact recreational use of the water; or
- (c) visual recreational use of the water.

“recycling”, of waste water, means—

- (a) reusing the waste water in the process that generated it; or
- (b) reprocessing the waste water to develop a new product; or
- (c) using the waste water (whether on or off the site where it is generated).

“relevant person”, for an environmental management decision, means—

- (a) for a decision about an environmental authority—the applicant for, or the holder of, the authority; or
- (b) for a decision about an environmental management program—the person or public authority that submitted the program for approval or the holder of the approval of the program; or
- (c) for a decision about an environmental protection order—the proposed recipient, or recipient, of the order.

“secondary contact recreational use”, of a water, means contact (other than full body contact) with the water, including, for example, boating and fishing.

“ship” has the meaning under the Marine Pollution Act.

“site specific document” means a document—

- (a) that contains specific information about a water, or part of a water; and

SCHEDULE 2 (continued)

(b) is recognised by the relevant administering authority as having appropriate scientific authority.

“surface waters” means waters other than ground waters.

“visual recreational use”, of a water, means viewing the water without contact with it.

“waste prevention” means the adoption of practices or processes that avoid generating waste or reduce the quantity of waste requiring subsequent treatment, recycling or disposal.

“waste water” means a liquid waste, and includes contaminated stormwater.

“water quality guidelines” see section 9.

“water quality objectives” are long-term goals for water quality management.

“waters” includes the bed and banks of waters.

“wetland” means an area of permanent or periodic inundation, whether natural or artificial, static or flowing, fresh, brackish or saline, and includes an area of marine water the depth of which at low tide is less than 6 m.

ENDNOTES

1 Index to endnotes

	Page
2 Date to which amendments incorporated	43
3 Key	43
4 List of legislation	44

2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Environmental Protection (Water) Policy 1997 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 List of legislation

Environmental Protection (Water) Policy 1997 S No. 136

notfd gaz 5 June 1997 pp 504A–504B

s 1–2 commenced on date of notification

s 32 commences 1 January 1998 (see s 2)

remaining provisions commenced on date of notification

Note—A regulatory impact statement and explanatory note were prepared