



Queensland

Water and Other Legislation Amendment Act 2010

Act No. 53 of 2010



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Queensland

Water and Other Legislation Amendment Act 2010

Act No. 53 of 2010

An Act to amend the Energy Ombudsman Act 2006, the Environmental Protection Act 1994, the Fisheries Act 1994, the Land Valuation Act 2010, the Mineral Resources Act 1989, the Petroleum Act 1923, the Petroleum and Gas (Production and Safety) Act 2004, the Queensland Competition Authority Act 1997, the Queensland Institute of Medical Research Act 1945, the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, the Sustainable Planning Act 2009, the Vegetation Management Act 1999, the Water Act 2000, the Water Supply (Safety and Reliability) Act 2008 and the Wild Rivers Act 2005 for particular purposes, and to make consequential or minor amendments of other Acts as stated in schedule 2 for purposes related to those particular purposes

[Assented to 1 December 2010]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Water and Other Legislation Amendment Act 2010*.

2 Commencement

- (1) Sections 147, 149, 151, 156, 157, 160, 170 and 209 commence when the customer water and wastewater code first made under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 93 takes effect.
- (2) Part 5 is taken to have commenced on 20 September 2010.
- (3) The following provisions commence on 1 February 2011—
 - (a) part 10, other than section 126 and section 137, to the extent it inserts sections 32 and 33;
 - (b) schedule 2 to the extent it amends the *Fair Work (Commonwealth Powers) and Other Provisions Act 2009*.
- (4) The following provisions commence on a day to be fixed by proclamation—
 - (a) section 126;
 - (b) section 137 to the extent it inserts sections 32 and 33;
 - (c) section 51.

[s 7]

- (i) referring disputes about particular matters involving water entities; and
- (ii) having the disputes investigated and resolved.’.

7 Amendment of s 6 (Who is a *small customer*)

- (1) Section 6, heading, after ‘customer’—
insert—
‘*(energy)*’.
- (2) Section 6(1), ‘*small customer* if’—
omit, insert—
‘*small customer (energy)* if’.
- (3) Section 6(2), after ‘small customer’—
insert—
‘(energy)’.
- (4) Section 6(3), after ‘customer’—
insert—
‘(energy)’.

8 Insertion of new ss 6A and 6B

After section 6—

insert—

‘6A Who is a *small customer (water)*

‘A person is a *small customer (water)* if the person is a small customer under the customer water and wastewater code.

‘6B Who is an *eligible customer*

‘An *eligible customer* is a small customer (energy) or a small customer (water).’.

9 Insertion of new ss 7A and 7B

After section 7—

insert—

‘7A What is a *water entity*

‘A *water entity* is an entity that is a distributor-retailer under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 8.

‘7B What is a *utility entity*

‘A utility entity is an energy entity or a water entity.’.

10 Insertion of new s 8A

After section 8—

insert—

‘8A What is a *water entity function*

‘A *water entity function* is a function or obligation that is performed or required or permitted to be performed by a water entity under the customer water and wastewater code.’.

11 Amendment of s 11 (Functions)

(1) Section 11(1)(a), note, ‘19’—

omit, insert—

‘18A, 19, 19A’.

(2) Section 11(1)(d), ‘small customers’—

omit, insert—

‘eligible customers’.

(3) Section 11(1)(d) to (f)—

renumber as section 11(1)(c) to (e).

(4) Section 11(2), after ‘12’—

[s 12]

insert—

‘, 12A, 12B’.

12 Amendment of s 12 (General restrictions on functions)

(1) Section 12, heading—

omit, insert—

‘12 Restrictions on functions—energy entities’.

(2) Section 12(1), ‘The energy ombudsman’—

omit, insert—

‘In relation to an energy entity, the energy and water ombudsman’.

(3) Section 12(1)(c), after ‘customers’—

insert—

‘(energy)’.

(4) Section 12(1)(e), (i) and (j)—

omit.

(5) Section 12(1)(f) to (h)—

renumber as section 12(1)(e) to (g).

(6) Section 12(2)—

omit.

(7) Section 12(3)—

renumber as section 12(2).

(8) Section 12(2), as renumbered, definition *proceeding*—

omit.

13 Insertion of new ss 12A and 12B

After section 12—

insert—

‘12A Restriction on functions—water entities

- ‘(1) The energy and water ombudsman can not accept a referral about or investigate the fixing of—
- (a) charges for wastewater services or water services; or
 - (b) methodologies for fixing the charges.
- ‘(2) In this section—
- wastewater service* see the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, schedule.
- water service* see the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, schedule.

‘12B General restrictions on functions

- ‘(1) The energy and water ombudsman can not accept a referral about or investigate any of the following—
- (a) the content of government policies or of legislation, an energy Act authority, an industry code or the customer water and wastewater code;
 - (b) a matter that has already been decided by a proceeding;
 - (c) a matter the subject of an unfinished proceeding started before the referral.
- ‘(2) However, subsection (1)(c) does not apply if—
- (a) the energy and water ombudsman and the parties to the proceeding agree that the ombudsman may investigate the matter; or
 - (b) an order in the proceeding requires the energy and water ombudsman to investigate the matter.
- ‘(3) In this section—
- proceeding* includes arbitration.’

[s 14]

14 Amendment of s 13 (Exclusion of disputes relating to community ambulance cover levy)

(1) Section 13(1), after ‘customer’—

insert—

‘(energy)’.

(2) Section 13(4), after ‘12’—

insert—

‘or 12B’.

15 Amendment of s 18 (Disputes that may be referred to energy ombudsman)

(1) Section 18, heading—

omit, insert—

‘18 Disputes relating to energy entities that may be referred to energy and water ombudsman’.

(2) Section 18(1)(a), after ‘small customer’—

insert—

‘(energy)’.

(3) Section 18(3), ‘section 19’—

omit, insert—

‘sections 19 and 19A’.

(4) Section 18(5), after ‘small customer’—

insert—

‘(energy)’.

16 Insertion of new s 18A

After section 18—

insert—

‘18A Disputes relating to water entities that may be referred to energy and water ombudsman

- ‘(1) This section applies if a dispute exists between a small customer (water) and a water entity about its performance of a water entity function.
- ‘(2) Subject to section 19A, either party to the dispute may refer it to the energy and water ombudsman.
- ‘(3) Subsection (4) applies if the dispute is about whether a water entity must perform a water entity function for a person.
- ‘(4) For subsection (1), the person is a small customer (water) if, had the function been performed, the person would have been a small customer (water).’.

17 Amendment of s 19 (Restrictions on disputes that can be referred)

- (1) Section 19, heading—
omit, insert—

‘19 Restrictions on disputes relating to energy entities that can be referred’.

- (2) Section 19(1)(b), after ‘12’—
insert—
‘, 12B’.
- (3) Section 19(1)(c), (e) and (f)—
omit.
- (4) Section 19(1)(d) and (g)—
renumber as section 19(1)(c) and (d).
- (5) Section 19(2)—
omit.

18 Insertion of new s 19A

After section 19—

[s 19]

insert—

‘19A General restrictions on disputes that can be referred

- ‘(1) A party to a dispute mentioned in section 18(1) or 18A(1) can not make a referral under that section if any of the following circumstances apply—
- (a) 12 months have passed since the later of the following to happen—
 - (i) the performance of the function to which the dispute relates;
 - (ii) the party becoming aware of the performance of the function to which the dispute relates;
 - (b) the energy and water ombudsman has already made a decision on an earlier dispute referral and—
 - (i) the parties to the earlier dispute referral are the same as the parties to the relevant dispute; and
 - (ii) the proposed dispute referral is the same, or substantially the same, as the earlier dispute referral;
 - (c) the party is a non-entity party and the energy and water ombudsman is reasonably satisfied the party has not made a genuine attempt to resolve the matter with the relevant entity.
- ‘(2) For subsection (1)(a)(ii), a non-entity party is taken to have become aware of the performance of the function to which the dispute relates when the party might reasonably be expected to have known it was being performed.’.

19 Amendment of s 20 (Discretion to accept particular referrals made out-of-time)

- (1) Section 20(1)—

omit, insert—

- ‘(1) This section applies if—
- (a) for a dispute relating to an energy entity function—

-
- (i) because of section 19A(1)(a), a referral can not otherwise be made under section 18; and
 - (ii) the relevant entity is still an energy entity or, if it is no longer an energy entity, less than 12 months have passed since it stopped being an energy entity; or
- (b) for a dispute relating to a water entity function, because of section 19A(1)(a), a referral can not otherwise be made under section 18A.’.
- (2) Section 20(2), after ‘18’—
insert—
‘or 18A’.
- (3) Section 20(2), ‘19(1)(c)’—
omit, insert—
‘19A(1)(a)’.
- (4) Section 20(3), after ‘18’—
insert—
‘or 18A’.
- (5) Section 20(4), ‘19(1)(c)’—
omit, insert—
‘19A(1)(a)’.

20 Amendment of s 22 (Refusal to investigate dispute referral)

- (1) Section 22(1)(f), before ‘under’—
insert—
‘if the referral relates to an energy entity function,’.
- (2) Section 22(4), ‘13, 18 or 19’—
omit, insert—
‘12A, 12B, 13, 18, 18A, 19 or 19A’.

[s 21]

21 Amendment of s 23 (Notice of referral not properly made or of refusal to investigate)

Section 23(1)(a), ‘13, 18 or 19’—

omit, insert—

‘12A, 12B, 13, 18, 18A, 19 or 19A’.

22 Amendment of s 29 (Power to require particular documents or information from relevant entity)

(1) Section 29(3)(c), ‘energy entity’—

omit, insert—

‘relevant entity’.

(2) Section 29(3)(d), ‘energy entity’s’—

omit, insert—

‘relevant entity’s’.

23 Amendment of s 32 (Interim orders)

Section 32(1), example—

omit, insert—

‘Example of an order not to do a stated act—

If the dispute is about the amount alleged to be owing to—

- (a) an energy entity by the other party, the order could be that, until the investigation ends, the energy entity must not send reminder notices about the disputed amount to the other party or disconnect, or restrict the provision of, an energy service to the other party; or
- (b) a water entity by the other party, the order could be that, until the investigation ends, the water entity must not send reminder notices about the disputed amount to the other party or restrict the provision of water services or wastewater services to the other party.’.

24 Amendment of s 35 (Final orders that may be made)

(1) Section 35(1)(b) and (c), after ‘relevant energy Act’—

insert—

‘or the customer water and wastewater code’.

- (2) Section 35(2), after ‘subsection (1),’—

insert—

‘if the subject of the relevant dispute relates to an energy Act function,’.

25 Amendment of s 36 (Criteria for making final order)

Section 36(a) and (b)—

omit, insert—

- ‘(a) if the order relates to an energy entity function—
- (i) the purposes or objects of the relevant energy Act; and
 - (ii) the rights and obligations of the parties under any of the following—
 - (A) the relevant energy Act;
 - (B) a relevant industry code;
 - (C) a relevant energy Act authority;
 - (D) a contract between the parties; or
- (b) if the order relates to a water entity function—
- (i) the purposes or objects of, and the rights and obligations of the parties under, the customer water and wastewater code; or
 - (ii) the rights and obligations of the parties under a contract between the parties.’.

26 Amendment of s 37 (Restrictions on final orders)

- (1) Section 37(1), after ‘relevant energy Act authority’—

insert—

‘, the water legislation’.

[s 27]

(2) Section 37—

insert—

‘(5) In this section—

water legislation means each of the following—

- (a) the *Water Act 2000*;
- (b) the *Water Supply (Safety and Reliability) Act 2008*;
- (c) the *South-East Queensland Water (Distribution And Retail Restructuring) Act 2009*;
- (d) the customer water and wastewater code.’.

27 Amendment of s 41 (Effect of accepted order)

(1) Section 41(2), ‘order’—

omit, insert—

‘accepted order’.

(2) Section 41(3), ‘the order’—

omit, insert—

‘the accepted order’.

(3) Section 41(6), definition *order*—

omit, insert—

‘***accepted order*** includes an accepted order affected by jurisdictional error.’.

28 Amendment of s 46 (Failure by relevant entity to comply with accepted order or compliance directions)

(1) Section 46(2), after ‘notice’—

insert—

‘and the relevant entity is not a water entity’.

(2) Section 46—

insert—

-
- ‘(6) Without limiting subsection (1), subsection (7) applies if the relevant entity does not comply with an accepted order or compliance directions of which it has had notice and the relevant entity is a water entity.
- ‘(7) The energy and water ombudsman or the non-entity party may, by written notice, refer the noncompliance to—
- (a) the Queensland Water Commission; or
 - (b) the regulator under the *Water Supply (Safety and Reliability) Act 2008*, section 10.’.

29 Amendment of s 49 (Functions)

- (1) Section 49(b)(ii), ‘small customers’—
omit, insert—
‘eligible customers’.
- (2) Section 49—
insert—
- ‘(d) as soon as practicable after the end of each financial year, prepare and provide the Minister with advice about—
- (i) matters arising in relation to the energy and water ombudsman’s independence during the financial year; and
 - (ii) matters mentioned in subparagraphs (i) to (iv) of paragraph (b) arising during the financial year.’.

30 Amendment of s 50 (Appointment)

- (1) Section 50(2), (3) and (4), ‘scheme members’—
omit, insert—
‘scheme participants’.
- (2) Section 50—
insert—

[s 31]

- ‘(7) At least 1 industry member must be a member who represents the interests of scheme participants that are water entities.’.

31 Insertion of new s 50A

Part 6—

insert—

‘50A Chairperson

- ‘(1) The chairperson of the advisory council holds office for the term stated in the chairperson’s instrument of appointment.
- ‘(2) The stated term must not be more than 5 years.
- ‘(3) The chairperson may be reappointed.
- ‘(4) However, a person must not be reappointed if the total of the person’s terms of appointment would be more than 5 years.’.

32 Amendment of s 64 (Scheme membership)

- (1) Section 64, heading—

omit, insert—

‘64 Scheme participation—energy entities’.

- (2) Section 64(1), after ‘small customer’—

insert—

‘(energy)’.

- (3) Section 64(4), after ‘entity’—

insert—

‘that was an energy entity’.

33 Insertion of new s 64A

After section 64—

insert—

‘64A Scheme participation—water entities

‘A water entity becomes a scheme participant on 1 January 2011.’.

34 Amendment of s 66 (When membership fee is payable)

Section 66(3), after ‘67’—

insert—

‘or 67A’.

35 Amendment of s 67 (Amount of membership fee)

Section 67, heading—

omit, insert—

‘67 Amount of participation fee—energy entity’.

36 Insertion of new s 67A

After section 67—

insert—

‘67A Amount of participation fee—water entity

‘(1) The participation fee for an entity that is a water entity at the start of a financial year is \$10000.

‘(2) The participation fee for the 2010/2011 financial year for a water entity that becomes a scheme participant on 1 January 2011 is \$5000.’.

37 Amendment of s 69 (Working out user-pays fee)

(1) Section 69(4), ‘subsection (6) or (7)’—

omit, insert—

‘the budget guidelines prepared under section 75’.

(2) Section 69(5) to (8)—

omit, insert—

[s 38]

- ‘(5) The scheme participant is not entitled to, or to be credited for, interest on any amount credited to the participant because of an adjustment mentioned in subsection (4).’.
- (3) Section 69(9), definition *relevant performance costs*, from ‘for a quarter’ to ‘during the quarter’—
omit, insert—
‘, are the costs incurred by the energy and water ombudsman’.
- (4) Section 69(9)—
renumber as section 69(6).

38 Amendment of s 74 (Annual budgets)

- (1) Section 74(2) to (7)—
renumber as section 74(4) to (9).
- (2) Section 74—
insert—
- ‘(2) The Minister must approve, or refuse to approve, a budget by each 30 April.
- ‘(3) However, a failure by the Minister to act under subsection (2) does not prevent the Minister approving, or refusing to approve, a budget at later time.’.

39 Amendment of s 75 (Budget guidelines)

- (1) Section 75, ‘and structure’—
omit, insert—
‘, structure and adjustment’.
- (2) Section 75—
insert—
- ‘(2) The budget guidelines must provide for the user-pays fees for a scheme participant to be adjusted at least twice a year having regard to the participant’s forecasted costs and relevant performance costs.

- ‘(3) In this section—
forecasted costs has the same meaning as in section 69.
relevant performance costs has the same meaning as in section 69.’.

40 Amendment of s 76 (Delegation)

Section 76(3)—

omit, insert—

- ‘(3) In this section—
appropriately qualified, for an energy and water ombudsman officer to whom functions may be delegated, includes having the qualifications, experience or standing appropriate for the function.

Example of standing for energy and water ombudsman officer—

the officer’s classification or level in the energy and water ombudsman office

functions includes powers.’.

41 Amendment of s 77 (Annual report)

- (1) Section 77(2), from ‘but’—

omit, insert—

‘but within a period that will allow the report to be tabled in the Legislative Assembly within the tabling period under the *Financial and Performance Management Standard 2009*, section 49(2).’.

- (2) Section 77(3)(a)(v), ‘or QCA’—

omit, insert—

‘, QCA, the Queensland Water Commission or the regulator under the *Water Supply (Safety and Reliability) Act 2008*, section 10.’.

[s 42]

42 Amendment of s 78 (Reports and observations on energy ombudsman's initiative)

(1) Section 78(1)(c) to (e)—

renumber as section 78(1)(d) to (f).

(2) Section 78(1)—

insert—

‘(c) the Queensland Water Commission or the regulator under the *Water Supply (Safety and Reliability) Act 2008*, section 10;’.

43 Amendment of s 79 (Privacy)

Section 79—

insert—

‘(6) In this section, a reference to the energy and water ombudsman or an energy and water ombudsman officer includes a reference to a person who was the energy ombudsman or an energy ombudsman officer under this Act as in force before the commencement of the *Water and Other Legislation Amendment Act 2010*, section 3.’.

44 Amendment of s 80 (Disclosure of particular information)

(1) Section 80(1) and (2)—

omit, insert—

‘(1) If, under this Act, a utility entity gives the energy and water ombudsman written information about the entity—

(a) the ombudsman may disclose the information to a relevant regulatory body if—

(i) the information is relevant to the performance of the body's functions under an Act; and

(ii) the entity consents to the disclosure; and

(b) the ombudsman must disclose the information to a relevant regulatory body if—

-
- (i) the body asks the ombudsman for the disclosure to perform the body's functions under an Act; and
 - (ii) the entity consents to the disclosure.
 - '(2) If, under another Act, a utility entity gives a relevant regulatory body written information about the entity—
 - (a) the body may disclose the information to the energy and water ombudsman if—
 - (i) the information is relevant to the performance of the ombudsman's functions under this Act; and
 - (ii) the entity consents to the disclosure; and
 - (b) the body must disclose the information to the energy and water ombudsman if—
 - (i) the ombudsman asks the body for the disclosure to perform the ombudsman's functions under this Act; and
 - (ii) the entity consents to the disclosure.'
 - (2) Section 80(3), after 'given'—
insert—
'by an energy entity'.
 - (3) Section 80(4), definition *relevant regulatory body*—
omit, insert—
'***relevant regulatory body*** means—
 - (a) in relation to an energy entity—
 - (i) QCA; or
 - (ii) the regulator under an energy Act; or
 - (b) in relation to a water entity—
 - (i) the Queensland Water Commission; or
 - (ii) the regulator under the *Water Supply (Safety and Reliability) Act 2008*, section 10.'

[s 45]

45 Amendment of pt 9 (Transitional provisions)

Part 9, heading, after ‘provisions’—

insert—

‘for Act No. 61 of 2006’.

46 Amendment of s 84 (Definitions for pt 9)

Section 84—

insert—

‘energy ombudsman means the energy ombudsman under this Act as in force before the commencement of the *Water and Other Legislation Amendment Act 2010*, part 2.

scheme member means a scheme member under this Act as in force before the commencement of the *Water and Other Legislation Amendment Act 2010*, part 2.’.

47 Insertion of new pt 10

After section 90—

insert—

**‘Part 10 Transitional provisions for the
Water and Other Legislation
Amendment Act 2010**

‘91 Definitions for pt 10

‘In this part—

commencement means the commencement of the provision in which the term is used.

post-amended Act means this Act as in force immediately after the commencement.

pre-amended Act means this Act as in force immediately before the commencement.

‘92 Office continues

‘The Office of the Energy and Water Ombudsman established by the post-amended Act, section 59 is a continuation of the Office of Energy Ombudsman established by the pre-amended Act, section 59.

‘93 Saving of certain appointments etc.

- ‘(1) On the commencement—
- (a) the person who immediately before the commencement held appointment under the pre-amended Act, part 7 as energy ombudsman is taken to have been appointed as the energy and water ombudsman under the post-amended Act, part 7 on the same terms and conditions as the first mentioned appointment; and
 - (b) a person who immediately before the commencement held appointment under pre-amended Act as an energy ombudsman officer is taken to have been appointed as an energy and water ombudsman officer under the post-amended Act on the same terms and conditions as the first mentioned appointment.
- ‘(2) Anything done by the energy ombudsman or an energy ombudsman officer under the pre-amended Act that has a continuing effect is taken to have been done by the energy and water ombudsman or an energy and water ombudsman officer under the post-amended Act.
- ‘(3) Without limiting subsection (2)—
- (a) a delegation by the energy ombudsman under the pre-amended Act having effect immediately before the commencement continues to have effect as a delegation by the energy and water ombudsman under the post-amended Act; and
 - (b) a form approved by the energy ombudsman under the pre-amended Act having affect immediately before the commencement continues as a form approved by the

[s 47]

energy and water ombudsman under the post-amended Act.

‘94 References to energy ombudsman

‘In an Act or document, a reference to the energy ombudsman may, if the context permits, be taken to be a reference to the energy and water ombudsman.

‘95 Scheme members

- ‘(1) An energy entity that, immediately before the commencement, was a scheme member under the pre-amended Act becomes, on the commencement, a scheme participant under the post-amended Act.
- ‘(2) An amount payable under the pre-amended Act, part 8, division 2 immediately before the commencement by an entity that was a scheme member under that Act continues to be payable by the entity under the post-amended Act, part 8, division 2.

‘96 Advisory council members go out of office and appointment of new members

- ‘(1) On the commencement, the chairperson and other members of the advisory council go out of office.
- ‘(2) Subsections (3) and (4) apply for the appointment of the members of the council first happening after the commencement.
- ‘(3) The post-amended Act, section 50(4) and (5) does not apply.
- ‘(4) Each water entity is taken to be a scheme participant.

‘97 Application of ss 68 and 69 to water entities for last 2 quarters of 2010/2011 financial year

- ‘(1) This section applies to each water entity that is to become a scheme participant on 1 January 2011 under section 64A.

-
- ‘(2) For section 68(1) and (4), the water entity is taken to become a scheme participant on the commencement.
 - ‘(3) For section 69, the forecasted costs of the water entity as a scheme participant for each of the 3rd and 4th quarters of the 2010/2011 financial year is \$55000.
 - ‘(3) For part 8, division 2, the amount of \$55000 is taken to have been worked out under section 69.

‘98 Energy and water ombudsman may prepare amended budget

- ‘(1) The purpose of this section is to empower the energy and water ombudsman to prepare an amended budget for the 2010/2011 financial year having regard to the extra functions given to the ombudsman by the *Water and Other Legislation Amendment Act 2010*, part 2.
- ‘(2) The energy and water ombudsman may prepare the amended budget on the basis that each water entity will become a scheme participant on 1 January 2011.
- ‘(3) Subsection (4) applies if, at the time the energy and water ombudsman prepares the amended budget, there are no members of the advisory council.
- ‘(4) Despite the post-amended Act, section 74(6) and (7), the Minister may approve the amended budget.

‘99 Advisory council to report in relation to water entities

- ‘(1) The advisory council must prepare and give a report to the Minister on the performance of the energy and water ombudsman’s functions as they relate to water entities.
- ‘(2) The report must be given to the Minister before the end of 2011.

[s 48]

‘100 Effect of regulation amendment

‘The amendment of the *Energy Ombudsman Regulation 2007* by the *Water and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

‘101 Transitional regulation-making power

- ‘(1) A regulation (a *transitional regulation*) may provide for a matter that—
- (a) it is necessary to provide for to allow or facilitate the change from the operation of the pre-amended Act to the operation of the post-amended Act; and
 - (b) the post-amended Act does not provide for or sufficiently provide for.
- ‘(2) A transitional regulation may have retrospective operation to a day not earlier than the commencement.
- ‘(3) A transitional regulation must declare it is a transitional regulation.
- ‘(4) This section and any transitional regulation expires 1 year after the commencement.’.

48 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *energy ombudsman*, *energy ombudsman office*, *energy ombudsman officer*, *membership fee*, *non-entity party*, *ombudsman*, *relevant entity*, *scheme member* and *small customer*—
omit.
- (2) Schedule—
insert—
‘2010/2011 financial year means the financial year beginning on 1 July 2010 and ending on 30 June 2011.
commencement, for part 10, see section 91.

customer water and wastewater code means the customer water and wastewater code under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, chapter 4.

eligible customer see section 6B.

energy and water ombudsman means the person who, under part 7, holds appointment as energy and water ombudsman.

energy and water ombudsman office means the Office of the Energy and Water Ombudsman established under section 59.

energy and water ombudsman officer means an officer mentioned in section 59(3).

participation fee see section 65(2)(a).

non-entity party, for a provision about a dispute referral or final order, means—

- (a) if the dispute relates to an energy entity function, the small customer (energy) or occupier who is a party to the relevant dispute for the referral or order; or
- (b) if the dispute relates to a water entity function, the small customer (water) who is a party to the relevant dispute for the referral or order.

ombudsman means the energy and water ombudsman.

post-amended Act, for part 10, see section 91.

pre-amended Act, for part 10, see section 91.

Queensland Water Commission means the Queensland Water Commission established under the *Water Act 2000*.

relevant entity for—

- (a) a provision about a dispute referral, proposed dispute referral or final order—means the energy entity, entity mentioned in section 18(2) or water entity that performed the energy entity function or water entity function the subject of the relevant dispute for the dispute referral, proposed dispute referral or order; or

omit, insert—

‘mining activities (other than activities carried out for specified works) are to be carried out below the surface of the wild river high preservation area or wild river special floodplain management area’.

51 Amendment of s 151 (What is a *level 1 mining project* and a *level 2 mining project*)

Section 151(1)(c)—

omit.

52 Amendment of s 162 (Decision about EIS requirement)

(1) Section 162(3A), after ‘activities’—

insert—

‘(other than activities carried out for specified works)’.

(2) Section 162(3A)(a), after ‘area’—

insert—

‘or a wild river special floodplain management area’.

53 Amendment of s 163 (Minister’s power to overturn decision about EIS requirement)

Section 163(1)(b)(i), after ‘area’—

insert—

‘or a wild river special floodplain management area’.

54 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘*specified works* see the *Wild Rivers Act 2005*, section 48(2).’

[s 55]

wild river special floodplain management area means a special floodplain management area under the *Wild Rivers Act 2005*.

Part 4 Amendment of Fisheries Act 1994

55 Act amended

This part amends the *Fisheries Act 1994*.

56 Amendment of s 76DA (Applications in relation to wild river preservation areas)

- (1) Section 76DA, heading, ‘preservation areas’—
omit, insert—
‘areas—aquaculture and waterway barrier works’.
- (2) Section 76DA(1)(b), ‘preservation’—
omit.

Part 5 Amendment of Land Valuation Act 2010

57 Act amended

This part amends the *Land Valuation Act 2010*.

58 Amendment of s 30 (Mining leases)

- (1) Section 30(2) to (4)—

omit, insert—

- ‘(2) If all of the lease’s area is surface area, the value is the lesser of the following—
- (a) the value of the surface area;
 - (b) 20 times the yearly rent payable for the lease.
- ‘(3) If only part of the lease’s area is surface area (the *surface area part*), the value is the lesser of the following—
- (a) the total of—
 - (i) the value of the surface area part; and
 - (ii) 30% of the value of the surface area situated directly above the part that does not include surface area;
 - (b) the total of—
 - (i) 20 times the yearly rent payable for the surface area part; and
 - (ii) 6 times the yearly rent payable for the rest of the lease’s area.
- ‘(4) If the lease’s area does not include any surface area, the value is the lesser of the following—
- (a) 30% of the value of the surface area situated directly above the lease;
 - (b) 6 times the yearly rent payable for the lease.’.

59 Amendment of s 31 (Geothermal, GHG and petroleum leases)

Section 31(1), from ‘is 6 times’—

omit, insert—

‘is the lesser of the following—

- (a) the value of the surface area of the land;
- (b) 6 times the yearly rent payable for the lease.’.

insert—

‘, a mineral development licence’.

- (2) Section 383(1)(a) and (2)(a), after ‘area’—

insert—

‘or the wild river special floodplain management area’.

- (3) Section 383(2)(b), after ‘area’—

insert—

‘, the wild river special floodplain management area’.

- (4) Section 383(3)—

omit, insert—

- ‘(3) If a mineral development licence is granted over land that includes a wild river area, an authorised activity for the licence may be carried out—

(a) to the extent the licence applies to the wild river high preservation area or the wild river special floodplain management area, other than watercourses and lakes—using only low impact activities; and

(b) to the extent the licence applies to watercourses and lakes in the wild river high preservation area, the wild river special floodplain management area or nominated waterways—using only limited hand sampling techniques.

- ‘(3A) Subject to subsection (3B), if a mining lease is granted over land that includes a wild river area, an authorised activity for the lease (other than an activity carried out for specified works) must not be carried out—

(a) on the surface of the land in the wild river high preservation area or the wild river special floodplain management area; or

(b) in a nominated waterway.

[s 63]

- ‘(3B) If a mining lease is granted over land that includes a wild river area, an authorised activity for the lease (other than an activity carried out for specified works) may be carried out—
- (a) to the extent the lease applies to the wild river high preservation area or the wild river special floodplain management area, other than watercourses and lakes—using only low impact activities; and
 - (b) to the extent the lease applies to watercourses and lakes in the wild river high preservation area, the wild river special floodplain management area or nominated waterways—using only limited hand sampling techniques.’.
- (5) Section 383(4), ‘Subsection (3)(b) does not apply’—
omit, insert—
‘Subsections (3A)(b) and (3B)(b) do not apply in relation to a nominated waterway’.

63 Amendment of s 384 (Renewal of mining tenements in wild river areas)

- (1) Section 384(1), after ‘permit,’—
insert—
‘a mineral development licence,’.
- (2) Section 384(1)(a) and (2)(a), after ‘area’—
insert—
‘or the wild river special floodplain management area’.
- (3) Section 384(2)(b), after ‘area’—
insert—
‘, the wild river special floodplain management area’.
- (4) Section 384(3)—
omit, insert—

-
- ‘(3) If a mineral development licence is renewed over land that includes a wild river area, an authorised activity for the licence may be carried out—
- (a) to the extent the renewed licence applies to the wild river high preservation area or the wild river special floodplain management area, other than watercourses and lakes—using only low impact activities; and
 - (b) to the extent the renewed licence applies to watercourses and lakes in the wild river high preservation area, the wild river special floodplain management area or nominated waterways—using only limited hand sampling techniques.
- ‘(3A) Subject to subsection (3B), if a mining lease is renewed over land that, at the time of the renewal, includes a wild river area, an authorised activity for the lease (other than an activity carried out for specified works) must not be carried out—
- (a) on the surface of the land in the wild river high preservation area or the wild river special floodplain management area; or
 - (b) in a nominated waterway.
- ‘(3B) If a mining lease is renewed over land that, at the time of the renewal, includes a wild river area, an authorised activity for the lease (other than an activity carried out for specified works) may be carried out—
- (a) to the extent the renewed lease applies to the wild river high preservation area or the wild river special floodplain management area, other than watercourses and lakes—using only low impact activities; and
 - (b) to the extent the renewed lease applies to watercourses and lakes in the wild river high preservation area, the wild river special floodplain management area or nominated waterways—using only limited hand sampling techniques.’.

(5) Section 384(4), ‘Subsection (3)(b) does not apply’—
omit, insert—

comply with the obligation is an offence against that Act.

Examples of another obligation under the Water Act, chapter 3 with which the holder may be required to comply—

- giving an underground water impact report under section 370 of that Act
- preparing and complying with a baseline assessment plan under sections 397 and 400 of that Act

water monitoring activity see section 87.’.

(3) Section 2, definition *owner*, paragraph 3—

omit.

(4) Section 2, definition *owner*, paragraph 4—

renumber as paragraph 3.

(5) Section 2, definition *well*, paragraph 3(c)—

omit, insert—

‘(c) a water bore to which the Water Act, chapter 3 applies;’.

66 Amendment of s 74X (Compliance with land access code)

Section 74X(b), ‘for the 1923 Act petroleum tenure’—

omit, insert—

‘for the holder’.

67 Omission of pt 6CA (Existing Water Act bores)

Part 6CA—

omit.

68 Amendment of s 75WA (Who may apply for water monitoring authority)

Section 75WA(1), from ‘holder to comply with’—

omit, insert—

[s 69]

‘holder to comply with the holder’s underground water obligations for the tenure.’.

69 Amendment of s 75WC (Deciding application for water monitoring authority)

(1) Section 75WC(3) to (5)—

renumber as section 75WC(4) to (6).

(2) Section 75WC—

insert—

‘(3) The Minister may, before deciding the application, seek advice about the application from the chief executive of the department administering the Water Act.’.

(3) Section 75WC(6), as renumbered, after ‘activities’—

insert—

‘, if the exclusion or restriction does not prevent the holder from complying with the holder’s underground water obligations’.

70 Amendment of s 75WD (Operation of sdiv 2)

Section 75WD(3)(a), ‘75WH’—

omit, insert—

‘, 74X, 75WH’.

71 Amendment of s 75WE (Water monitoring activities)

Section 75WE, after ‘area of the authority’—

insert—

‘to comply with the holder’s underground water obligations for the tenure’.

72 Amendment of s 75WN (Amending water monitoring authority by application)

(1) Section 75WN(5) and (6)—

renumber as section 75WN(6) and (7).

(2) Section 75WN—

insert—

‘(5) The Minister may, before deciding the application, seek advice about the application from the chief executive of the department administering the Water Act.’.

73 Amendment of s 78M (Required contents of entry notice)

Section 78M(3)(a)(ii), after ‘a lease’—

insert—

‘or water monitoring authority’.

74 Amendment of pt 6K, div 1, hdg (Compensation other than for notifiable road uses and make good obligation)

Part 6K, division 1, heading, ‘and make good obligation’—

omit.

75 Amendment of s 79P (Application of div 1)

Section 79P, from ‘apply for’—

omit, insert—

‘apply for a public land authority in relation to a notifiable road use.’.

76 Amendment of s 80U (When noncompliance action may be taken)

Section 80U(2)—

insert—

[s 77]

‘(h) is the subject of a notice given to the Minister by the chief executive of the department administering the Water Act, stating that the holder has been convicted of an offence against the Water Act, chapter 3.’.

77 Amendment of s 86 (Water rights)

Section 86(2)—

omit, insert—

‘(2) However—

- (a) a permission under subsection (1) is given on the condition that the authority to prospect holder or lessee complies with the underground water obligations applying to the holder or lessee; and
- (b) water may be supplied under subsection (1)(c) only if the supply is for domestic purposes or stock purposes.’.

78 Insertion of new s 87

After section 86—

insert—

‘87 Water monitoring activities

- ‘(1) Despite the Water Act, a 1923 Act petroleum tenure holder may carry out any of the following activities in the area of the holder’s tenure to comply with its underground water obligations for the tenure—
- (a) gathering information about, or undertaking an assessment of, a water bore;
 - (b) monitoring effects of the exercise of underground water rights for the tenure;
 - (c) constructing or plugging and abandoning a water observation bore;
 - (d) gathering information for preparing an underground water impact report or final report under the Water Act, chapter 3;

- (e) carrying out any other activity necessary to comply with an underground water obligation of the holder.
- ‘(2) An activity mentioned in subsection (1) is a *water monitoring activity*.
- ‘(3) In this section—
- underground water rights* means the taking of water necessarily taken as part of petroleum production or testing for petroleum production under 1 or more 1923 Act petroleum tenures.
- water bore* see the Water Act, schedule 4.’.

79 Amendment of schedule (Decisions subject to appeal)

Schedule, entry for ‘Provisions for existing Water Act bores’—

omit.

Part 8 Amendment of Petroleum and Gas (Production and Safety) Act 2004

80 Act amended

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

81 Amendment of s 185 (Underground water rights)

Section 185(2)—

omit, insert—

- ‘(2) The rights under subsection (1)—

[s 82]

- (a) are the *underground water rights* for the petroleum tenure; and
- (b) are subject to the tenure holder complying with the holder's underground water obligations.'.

82 Amendment of s 187 (Water monitoring activities)

(1) Section 187(1)—

omit, insert—

'(1) A petroleum tenure holder may carry out any of the following activities in the area of the holder's tenure to comply with its underground water obligations for the tenure—

- (a) gathering information about, or undertaking an assessment of, a water bore;
- (b) monitoring effects of the exercise of underground water rights for the tenure;
- (c) constructing or plugging and abandoning a water observation bore;
- (d) gathering information for preparing an underground water impact report or final report under the Water Act, chapter 3;
- (e) carrying out any other activity necessary to comply with an underground water obligation of the holder.'

(2) Section 187—

insert—

'(3) In this section—

water bore see the Water Act, schedule 4.'

83 Amendment of s 190 (Who may apply for water monitoring authority)

Section 190(1), from 'holder to comply with'—

omit, insert—

‘holder to comply with the holder’s underground water obligations for the tenure.’.

84 Amendment of s 192 (Deciding application for water monitoring authority)

(1) Section 192(3) to (7)—

renumber as section 192(4) to (8).

(2) Section 192—

insert—

‘(3) The Minister may, before deciding the application, seek advice about the application from the chief executive of the department administering the Water Act.’.

(3) Section 192(6), as renumbered, after ‘activities’—

insert—

‘, if the exclusion or restriction does not prevent the holder from complying with the holder’s underground water obligations’.

85 Amendment of s 203 (Amending water monitoring authority by application)

(1) Section 203(5) and (6)—

renumber as section 203(6) and (7).

(2) Section 203—

insert—

‘(5) However, the Minister may, before deciding the application, seek advice about the application from the chief executive of the department administering the Water Act.’.

86 Omission of ch 2, pt 9 (Existing Water Act bores)

Chapter 2, part 9—

omit.

[s 87]

87 Amendment of ch 5, pt 5, div 1, hdg (Compensation other than for notifiable road uses and make good obligation)

Chapter 5, part 5, division 1, heading, ‘and make good obligation’—

omit.

88 Amendment of s 531 (Application of div 1)

Section 531, from ‘apply for’—

omit, insert—

‘apply for a public land authority in relation to a notifiable road use.’.

89 Amendment of s 564 (Petroleum register)

Section 564(1)(d)—

omit.

90 Amendment of s 790 (Types of noncompliance action that may be taken)

Section 790(2)—

omit, insert—

‘(2) However, a requirement under subsection (1)(f)—

(a) may not be made if the event for which the noncompliance action is taken is an event mentioned in section 791(2)(g); and

(b) may be made only if the holder has agreed to the requirement being made instead of the taking of other noncompliance action under subsection (1).’.

91 Amendment of s 791 (When noncompliance action may be taken)

Section 791(2)—

insert—

‘(g) is the subject of a notice given to the Minister by the chief executive of the department administering the Water Act, stating that the holder has been convicted of an offence against the Water Act, chapter 3.’.

92 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *existing Water Act bore, impaired capacity, make good agreement, make good obligation, monitoring report, restoration measures, review report, trigger threshold, underground water flow model, underground water impact report* and *unduly affected—*

omit.

(2) Schedule 2—

insert—

‘***underground water obligations***, of a petroleum tenure holder, means—

- (a) the holder’s underground water obligations under the Water Act, chapter 3; and
- (b) any other obligation under the Water Act, chapter 3 with which the holder is required to comply, if failure to comply with the obligation is an offence against that Act.

Examples of another obligation under the Water Act, chapter 3 with which the holder may be required to comply—

- giving an underground water impact report under section 370 of that Act
- preparing and complying with a baseline assessment plan under sections 397 and 400 of that Act.’.

(3) Schedule 2, definition *owner*, paragraph 3—

omit.

(4) Schedule 2, definition *owner*, paragraphs 4 and 5—
renumber as paragraphs 3 and 4.

insert—

‘(hb) to monitor compliance with water pricing determinations; and’.

(8) Section 10(i), from ‘about’—

omit, insert—

‘about—

- (i) access codes or proposed access codes, or the contents of access codes or proposed access codes; or
- (ii) water pricing determination codes or proposed water pricing determination codes, or the contents of water pricing determination codes or proposed water pricing determination codes; and’.

95 Amendment of s 72 (Meaning of *service*)

Section 72(3), ‘and part 5A’—

omit.

96 Amendment of pt 5A, hdg (Pricing and supply of water)

Part 5A, heading, ‘and supply’—

omit.

97 Amendment of s 170A (Application of part to partnerships and joint ventures)

Section 170A(1), ‘or water seeker’—

omit.

98 Amendment of s 170B (Application of Act to authority for purposes of giving notices)

Section 170B, heading, ‘Act’—

[s 99]

omit, insert—

‘part’.

99 Insertion of new pt 5A, div 2, sdiv 4A

After section 170Q—

insert—

‘Subdivision 4A Other declarations

‘170QA Particular monopoly water supply activity declarations

- ‘(1) The candidate water supply activity carried on by each of the following water suppliers is declared to be a monopoly water supply activity—
- (a) Allconnex Water;
 - (b) Queensland Urban Utilities;
 - (c) Unitywater.
- ‘(2) The declaration under subsection (1) is taken, for each of the water suppliers mentioned, to be a declaration of a monopoly water supply activity.
- ‘(3) A declaration mentioned in subsection (2)—
- (a) can not be revoked under subdivision 5; and
 - (b) expires 10 years after the commencement of the subsection.’.

100 Replacement of s 170Y (Effect of expiry or revocation of declaration)

Section 170Y—

omit, insert—

‘170Y Effect of expiry or revocation of declaration

‘The expiry or revocation of a declaration of a monopoly water supply activity does not affect the operation or enforcement of a water pricing determination that was made before the expiry or revocation.’.

101 Replacement of pt 5A, div 2, sdiv 7, hdg (Investigations about monopoly water supply activities and making water pricing determinations)

Part 5A, division 2, subdivision 7, heading—

omit, insert—

‘Subdivision 7 Water pricing determinations’.

102 Replacement of ss 170ZA–170ZG

Sections 170ZA to 170ZG—

omit, insert—

‘170ZA Definitions for sdiv 7

‘In this subdivision—

determination means a determination in writing.

notice means written notice.

water pricing determination see section 170ZB(1).

water pricing period see section 170ZB(2).

water pricing proposal see section 170ZC(1).

‘170ZB Authority must make water price determinations

‘(1) The authority must make a determination or determinations (each a *water pricing determination*) for the monopoly water supply activity of a water supplier.

‘(2) Each water pricing determination must relate to a particular period (a *water pricing period*) for which the water supplier

[s 102]

carries on the monopoly water supply activity, being the period—

- (a) starting on the day (a *starting day*) the determination takes effect under section 170ZJ; and
 - (b) ending on a day stated in the determination.
- ‘(3) For subsection (2)(a), a water pricing determination other than the first determination must provide for the day after the expiry of the existing determination to be the day the determination takes effect under section 170ZJ.
- ‘(4) A water pricing determination must—
- (a) comply with section 170ZH; and
 - (b) require the water supplier to adopt the pricing practices stated in the determination in carrying on the monopoly water supply activity; and
 - (c) state a day by which the authority will give the water supplier a notice under section 170ZC for the next water pricing period.

Note—

See also subsection (7) and section 170ZC(4) for relevant time limitations.

- ‘(5) The water pricing determination may impose requirements for any matter relating to the pricing practices that the authority considers appropriate.
- ‘(6) Without limiting subsections (4) and (5), the water pricing determination may state the price, or the maximum allowed revenue, at or for which the water supplier must carry on the activity.
- ‘(7) A water pricing determination made for a particular monopoly water supply activity at any time after the first water pricing determination is made for the activity must be made at least 1 month before the end of the existing determination.

‘170ZC Notice of intention to make a water pricing determination

- ‘(1) Before making a water pricing determination for a monopoly water supply activity, the authority must give a notice to the water supplier—
- (a) advising the water supplier that it intends to make a water pricing determination for the activity for the water pricing period stated in the notice; and
 - (b) inviting the water supplier to give the authority a proposal (a *water pricing proposal*) for the activity for the period.
- ‘(2) The notice may require the water pricing proposal to be prepared in a form stated in the notice, including, for example, in the form of a draft water pricing determination.
- ‘(3) The notice may require the water supplier to include in the water pricing proposal any information the authority considers will help it to make the water pricing determination.
- ‘(4) The notice must require the water pricing proposal to be given to the authority—
- (a) within a period ending on a day stated in the notice that is not less than 180 days after the notice is given; or
 - (b) if the authority extends, or further extends, the period by notice given to the water supplier in the period or extended period—within the period as extended.
- ‘(5) The authority may, as mentioned in subsection (4)(b), by notice given to the water supplier, extend or further extend the period within which the water pricing proposal must be given to the authority.
- ‘(6) Subsections (4) and (5) do not limit section 170ZT.

Note—

Under section 170ZT, the authority may require information to be given to the authority within a reasonable period of at least 14 days.

[s 102]

‘170ZD When notice must be given

- ‘(1) A notice under section 170ZC must be given by the authority to a water supplier for a monopoly water supply activity—
 - (a) for the first water pricing determination made for the activity—within 90 days after the monopoly water supply activity is declared; and
 - (b) for a later water pricing determination—before the day stated in the existing water pricing determination as mentioned in section 170ZB(4)(c).
- ‘(2) However, a requirement that purports to be made by the authority under section 170ZC is not invalid only because the notice is given later than required by subsection (1).

‘170ZE Draft water pricing determination

- ‘(1) The authority, after considering—
 - (a) any water pricing proposal given to it by the water supplier; and
 - (b) the restrictions imposed by section 170ZH; and
 - (c) the matters mentioned in section 170ZI;must prepare a draft water pricing determination for the monopoly water supply activity for a water pricing period.
- ‘(2) The authority must give the draft determination to the water supplier and invite the water supplier to make submissions on the draft in the way and within the period the authority considers appropriate.
- ‘(3) The authority may also consult on the draft determination in any other way and with any other entity the authority considers appropriate.

‘170ZF Water pricing determination

- ‘(1) After considering any submissions received by it under section 170ZE, the authority must make a water pricing determination for the monopoly water supply activity for the

water pricing period for which the draft water pricing determination is made.

- ‘(2) The authority must give in the water pricing determination its reasons for making the determination.’.

103 Amendment of s 170ZH (Restrictions affecting making of water pricing determination)

- (1) Section 170ZH(1)(a) and (b)—

omit.

- (2) Section 170ZH(1)—

insert—

‘(e) a water pricing determination code for the activity.’.

- (3) Section 170ZH(1)(c) to (e)—

renumber as section 170ZH(1)(a) to (c).

- (4) Section 170ZH(2), ‘if’—

omit, insert—

‘to the extent’.

104 Amendment of s 170ZI (Matters to be considered by authority in making water pricing determination)

- (1) Section 170ZI(1)(e), ‘investigation’—

omit, insert—

‘determination’.

- (2) Section 170ZI(1)(f)—

omit.

- (3) Section 170ZI—

insert—

- ‘(3) In considering a matter mentioned in subsection (1), the authority may also have regard to the matter as it may continue in existence, arise, or be relevant over a period that is

[s 105]

longer than the water pricing period for which the water pricing determination is being made.

- ‘(4) Subsection (5) applies if the authority makes a water pricing determination that may have the effect of a price increase for customers that is higher than the rate of inflation.
- ‘(5) The authority must, in making the water pricing determination, consider the need to implement in the determination a price path for the introduction of the price increase to moderate its impact on customers.
- ‘(6) If the authority decides not to implement a price path when subsection (5) applies, the authority must give its reasons for not doing so.
- ‘(7) In implementing a price path, the authority must have regard to the legitimate business interests of the water supplier carrying on the monopoly water supply activity.
- ‘(8) A price path mentioned in subsection (5) may indicate how it will continue beyond the water pricing period to which the water pricing determination relates, subject to any later water pricing determination.’.

105 Amendment of s 170ZJ (When water pricing determination takes effect)

- (1) Section 170ZJ, heading, ‘takes’—
omit, insert—
‘has’.
- (2) Section 170ZJ—
insert—
- ‘(2) A water pricing determination expires at the end of the water pricing period for which it is made.’.

106 Amendment of s 170ZM (Register of water pricing determinations)

- (1) Section 170ZM(3), after ‘determination’—

insert—

‘or amendment’.

(2) Section 170ZM(3)—

renumber as section 170ZM(4).

(3) Section 170ZM—

insert—

‘(3) For each amendment of a determination, the register must include details of the following—

- (a) the amendment;
- (b) the day the amendment was approved;
- (c) the day the amendment is to take, or took, effect;
- (d) the authority’s reasons for approving the amendment.’.

107 Omission of pt 5A, divs 3–5

Part 5A, divisions 3 to 5—

omit.

108 Insertion of new ss 170ZN–170ZU

Part 5A, after section 170ZM—

insert—

‘170ZN Ending of authority’s jurisdiction to determine pricing

- ‘(1) The authority’s jurisdiction to make a water pricing determination about a monopoly water supply activity ends if the activity stops being a monopoly water supply activity.
- ‘(2) If subsection (1) applies, the authority may not make a water pricing determination even if it has given a notice to a water supplier under section 170ZC.

[s 108]

'170ZO Application for amendment of water pricing determination

- '(1) A water supplier for a monopoly water supply activity for which the authority has made a water pricing determination may apply to the authority for the amendment of the determination, if the supplier reasonably believes—
- (a) there has been a material change of circumstances since the determination was made; and
 - (b) the material change of circumstances justifies the amendment of the determination.
- '(2) An application under subsection (1) must be in writing and state—
- (a) details of the material change of circumstances; and
 - (b) the reasons the supplier believes the material change of circumstances justifies the amendment of the determination.
- '(3) The water supplier may withdraw the application at any time.

'170ZP Refusal to amend

- '(1) The authority may refuse to consider or further consider an application under section 170ZO to amend a water pricing determination if it considers the application is vexatious or frivolous.
- '(2) The authority may refuse the application if it considers there has not been—
- (a) a material change of circumstances; or
 - (b) a material change of circumstances that justifies an amendment of the water pricing determination.

'170ZQ Approval of application

- '(1) The authority may approve the application if the authority is satisfied—

- (a) there has been a material change of circumstances since the water pricing determination was made; and
 - (b) the material change of circumstances justifies the amendment; and
 - (c) the amendment does not contravene section 170ZH; and
 - (d) the authority has complied with section 170ZI.
- ‘(2) For subsection (1), a reference in section 170ZH or 170ZI to the making of a water pricing determination applies as if it were a reference to the making of an amendment of a water pricing determination.
- ‘(3) The authority must give notice of the making of the amendment to the water supplier.
- ‘(4) The notice must state the day the amendment takes effect.

‘170ZR Amendment on authority’s own initiative

- ‘(1) This section applies for the purpose of the amendment by the authority on its own initiative of a water pricing determination made for a monopoly water supply activity.
- ‘(2) The authority may amend the determination by notice given to the water supplier for the activity to correct—
- (a) a clerical mistake; or
 - (b) an error arising from an accidental slip or omission; or
 - (c) a material miscalculation of figures or a material mistake in the description of any person, thing or matter referred to in the determination; or
 - (d) a defect in form.

‘170ZS Investigation for sdiv 7

- ‘(1) For making a water pricing determination or deciding whether to amend a water pricing determination, the authority may conduct an investigation.

[s 108]

- ‘(2) Before starting the investigation, the authority must give reasonable notice of the investigation to—
 - (a) the relevant water supplier; and
 - (b) any other person the authority considers appropriate.
- ‘(3) The notice must state the following—
 - (a) the authority’s intention to conduct the investigation;
 - (b) the subject matter of the investigation;
 - (c) an invitation for the person to whom the notice is given to make written submissions to the authority on the subject matter within the time stated in the notice;
 - (d) the authority’s address.
- ‘(4) Part 6 applies to the investigation.

‘170ZT Requirement to give information

- ‘(1) This section applies for the making or amendment of a water pricing determination.
- ‘(2) In a notice under section 170ZC or other notice, the authority may require a water supplier to give the authority, within a reasonable time of at least 14 days stated in the notice, information the authority reasonably requires to ensure it—
 - (a) does not contravene section 170ZH; and
 - (b) complies with 170ZI.
- ‘(3) The notice must state that this section applies to the requirement.
- ‘(4) The water supplier must comply with the requirement within the time stated in the notice, unless the water supplier has a reasonable excuse.

Maximum penalty—500 penalty units or 6 months imprisonment.
- ‘(5) This section does not limit section 170ZC.

- ‘(6) In this section—
information includes a document.

‘170ZU Information to be considered by authority in making decisions

- ‘(1) This section applies to a decision by the authority about making a draft water pricing determination, a water pricing determination or an amendment to a water pricing determination.
- ‘(2) Subsection (3) applies if a person gives information (*late information*) to the authority after the period for giving the information stated by the authority.
- ‘(3) The authority may make the decision without taking late information into account if doing so is reasonable in all of the circumstances.
- ‘(4) For subsection (3), in deciding whether it is reasonable in all of the circumstances, the following factors must be taken into account—
- (a) whether the late information was available, or ought reasonably to have been available, to the person during the period mentioned in subsection (2);
 - (b) the length, complexity and relevance of the late information;
 - (c) how much time has elapsed since the period mentioned in subsection (2) ended;
 - (d) how advanced the authority’s decision-making process is when the late information is received.
- ‘(5) Subsection (6) applies if—
- (a) the authority has required a person to give information, or produce a document, to it for the purpose of making the decision; and
 - (b) the person fails to comply with the requirement.

[s 109]

- ‘(6) The authority may make the decision on the basis of the information available to it at the time.
- ‘(7) In this section—
information includes a document, submission or other matter.’.

109 Insertion of new pt 5A, div 3

After section 170ZU, as inserted by section 108—
insert—

‘Division 3 Codes for water pricing determinations

‘170ZV Making codes

- ‘(1) The Ministers may make codes for this Act stating requirements for the making of a water pricing determination for a monopoly water supply activity.
- ‘(2) Before making a code, the Ministers—
 - (a) must publish the proposed code and invite persons to make submissions on it to the Ministers within the reasonable time stated by the Ministers; and
 - (b) must ask the authority to give them information and advice about the code or its contents the authority considers appropriate; and
 - (c) may ask the authority to give them information and advice about a stated matter relating to the code or its contents.
- ‘(3) In making a code, the Ministers must have regard to—
 - (a) any submissions about the proposed code received by them within the time stated by the Ministers for subsection (2)(a); and

-
- (b) any information or advice given to them by the authority; and
 - (c) any other matters the Ministers consider relevant.

‘170ZW Code is subordinate legislation

‘A code is subordinate legislation.

‘170ZX Purpose and contents of codes

- ‘(1) The purpose of a code is to set out rules that apply for all or particular types of monopoly water supply activities.
- ‘(2) For subsection (1), a code may provide for any issue about a monopoly water supply activity.
- ‘(3) Without limiting subsections (1) and (2), a code may provide for the following—
 - (a) the process for making or amending a water pricing determination, whether the process has to be complied with by a water supplier or the authority;
 - (b) water pricing principles and practices.’.

110 Insertion of new pt 5A, div 6, sdiv 1 hdg

Part 5A, division 6, before section 170ZZZE—

insert—

‘Subdivision 1 Court orders’.

111 Amendment of s 170ZZZF (Orders to enforce water supply and pricing determinations)

- (1) Section 170ZZZF, heading, ‘water supply and’—
omit.
- (2) Section 170ZZZF(1)—
omit, insert—

[s 112]

- ‘(1) This section applies if, on application by any person, the court is satisfied that a water supplier (the *contravening person*) is engaging, or proposing to engage, in conduct constituting a contravention of a water pricing determination.’.

112 Replacement of s 170ZZZL (Orders to enforce approved water supply undertaking)

Section 170ZZZL—

omit, insert—

‘Subdivision 2 Information requirement

‘170ZZZL Requirement to give information about compliance with particular provisions

- ‘(1) The authority may take action under this section to find out whether a water supplier (the *person*) is complying with section 170ZL in relation to a water pricing determination.
- ‘(2) The authority may, by written notice given to the person, require the person to give the authority, within the time, not less than 14 days, stated in the notice, stated information about the person’s compliance with the water pricing determination.
- ‘(3) The person must comply with the requirement within the time stated in the notice, unless the person has a reasonable excuse.
- Maximum penalty—500 penalty units or 6 months imprisonment.
- ‘(4) A person who is an individual is not required to comply with a requirement to give information if the person claims on the ground of self-incrimination a privilege the individual would be entitled to claim against giving the information were the individual a witness in a prosecution for an offence in the Supreme Court.
- ‘(5) The authority or person may apply to the Supreme Court for a determination of the validity of a claim of privilege.’.

113 Amendment of s 171 (Application of part)

Section 171(m)—

omit.

114 Amendment of s 172 (Public seminars etc.)

Section 172, ‘hold’—

omit, insert—

‘conduct public consultation, including’.

115 Replacement of s 187A (Application of part)

Section 187A—

omit, insert—

‘187A Application of part

‘This part applies to the mediation of an access dispute for part 5, division 5, subdivision 2A.’.

116 Amendment of s 188 (Application of part)

(1) Section 188(b)—

omit.

(2) Section 188(c)—

renumber as section 188(b).

117 Omission of s 188A (Consolidation of arbitration of access and water supply disputes)

Section 188A—

omit.

118 Insertion of new s 235A

After section 235—

[s 119]

insert—

‘235A Proceedings for offences

‘Proceedings for an offence against this Act may be taken in a summary way under the *Justices Act 1886*.’.

119 Insertion of new pt 13

After section 250—

insert—

‘Part 13 Transitional provision for Queensland Competition Authority Amendment Act 2010

‘251 First water pricing determination

- ‘(1) This part applies—
- (a) to the monopoly water supply activities of Allconnex Water, Queensland Urban Utilities and Unitywater (each a *water supplier*); and
 - (b) to the first water pricing determination made for the monopoly water supply activity of each of those water suppliers.
- ‘(2) The water pricing determination takes effect, and the water pricing period for determination starts, on 1 July 2013.
- ‘(3) Subsection (2) applies despite section 170ZB(2)(a).
- ‘(4) The authority must comply with subsection (5) when deciding an appropriate rate of return on a water supplier’s assets.
- ‘(5) The authority must adopt the value of the water supplier’s assets the authority used in deciding the water supplier’s rate of return for the financial year ending 30 June 2013 when conducting the relevant price monitoring investigation, adjusted for prudent and efficient actual capital expenditure.
- ‘(6) In this section—

relevant price monitoring investigation means the price monitoring investigation of the water supplier under section 23A in the period before 30 June 2013.’.

120 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *approved water supply undertaking*, *candidate water supply activity*, *initial amendment notice*, *mediated resolution*, *mediation agreement*, *mediation conference*, *monopoly water supply activity*, *party*, *pricing practice*, *responsible person*, *secondary amendment notice*, *water seeker*, *water supplier*, *water supply activity*, *water supply agreement*, *water supply determination*, *water supply dispute notice* and *water supply undertaking*—

omit.

- (2) Schedule 2—

insert—

Allconnex Water means the Southern SEQ Distributor-Retailer Authority established under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 8.

candidate water supply activity means a water supply activity—

- (a) that is carried on by 1 of the following—
- (i) Allconnex Water;
 - (ii) Queensland Urban Utilities;
 - (iii) Unitywater; or
- (b) that is—
- (i) carried on by another water supplier; and
 - (ii) declared under a regulation to be a candidate water supply activity.

determination for part 5A, division 2, subdivision 7, see section 170ZA.

[s 120]

initial amendment notice, for part 5, see section 139.

mediated resolution, of an access dispute, see section 115E(1).

mediation agreement, for part 5, division 5, subdivision 2A, see section 115E(2).

mediation conference, for the mediation of an access dispute for part 5, division 5, subdivision 2A, see section 115A(2).

monopoly water supply activity means a candidate water supply activity—

- (a) declared by the Ministers, under section 170N, to be a monopoly water supply activity; or
- (b) declared by section 170QA to be a monopoly water supply activity.

notice for part 5A, division 2, subdivision 7, see section 170ZA.

party means—

- (a) for the mediation of an access dispute—a party to the mediation under section 115B; or
- (b) for the arbitration of an access dispute—a party to the arbitration under section 116; or
- (c) for an access determination—a party to the arbitration in which the authority made the access determination; or
- (d) for the arbitration of an application for arbitration under the *Water Supply (Safety and Reliability) Act 2008*, section 524(2)—a party to the arbitration.

pricing practice, for a monopoly business activity or a monopoly water supply activity—

- (a) means—
 - (i) the level and structure of prices for the activity; or
 - (ii) anything that affects the level and structure of prices for the activity, including, for example, the

service quality, costs of production and levels of performance relating to the activity; and

- (b) includes, for a monopoly water supply activity, anything that may be included in a water pricing determination under section 170ZB(5) or (6).

Queensland Urban Utilities means the Central SEQ Distributor-Retailer Authority established under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 8.

responsible person, for an approved access undertaking, means the person to whom the undertaking applies as an owner or operator of the relevant service.

secondary amendment notice, for part 5, see section 140(2).

Unitywater means the Northern SEQ Distributor-Retailer Authority established under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 8.

water pricing determination code means a code mentioned in part 5A, division 3.

water pricing period for part 5A, division 2, subdivision 7, see section 170ZA.

water pricing proposal for part 5A, division 2, subdivision 7, see section 170ZA.

water supplier means—

- (a) an entity, other than the State or a government agency, that—
- (i) carries on, or negotiates to carry on, a water supply activity; and
 - (ii) is not owned, whether legally or beneficially and whether entirely or in part, by the State or a government agency; or
- (b) any of the following entities—
- (i) Allconnex Water;
 - (ii) Queensland Urban Utilities;

[s 120]

(iii) Unitywater.

water supply activity means the provision of 1 or both of the following—

- (a) water services, including the following—
 - (i) water storage;
 - (ii) the transmission of water;
 - (iii) the reticulation of water;
 - (iv) water treatment or recycling;
 - (b) wastewater services, including the following—
 - (i) wastewater treatment;
 - (ii) the collection and transmission of wastewater through infrastructure;
 - (iii) the disposal of wastewater.’.
- (3) Schedule 2, definition *dispute notice*, ‘or a water supply dispute notice’—
omit.
- (4) Schedule 2, definition *investigation notice*, paragraphs (k) and (l)—
omit, insert—
‘(k) for an investigation under part 5A, division 2, subdivision 7—a notice of the investigation given under section 170ZS.’.
- (5) Schedule 2, definition *register*, paragraphs (i) and (j)—
omit.
- (6) Schedule 2, definition *service* (other than for parts 5 and 5A), ‘parts 5 and 5A’—
omit, insert—
‘part 5’.
- (7) Schedule 2, definition *service*, for parts 5 and 5A, ‘parts 5 and 5A’—

omit, insert—

‘part 5’.

- (8) Schedule 2, definition *water pricing determination*,
‘170ZF(1)’—

omit, insert—

‘170ZB(1)’.

Part 10 **Amendment of Queensland Institute of Medical Research Act 1945**

121 Act amended

This part amends the *Queensland Institute of Medical Research Act 1945*.

122 Insertion of new pt 1 hdg

Before section 1—

insert—

‘Part 1 Preliminary’.

123 Amendment of s 2 (Definitions)

Section 2, definitions *chief health officer, official member* and
Trust—

omit.

124 Insertion of new pt 2 hdg

After section 2—

insert—

- (d) health ethics;
- (e) financial management;
- (f) fund raising;
- (g) any other area the Minister considers to be relevant to the functions of the Council’.

127 Omission of s 5A (Nominee Council members)

Section 5A—

omit.

128 Amendment of s 5B (Council members’ term of appointment)

Section 5B, from ‘Council,’ to ‘member,’—

omit, insert—

‘Council’.

129 Omission of ss 8A–8N

Sections 8A to 8N—

omit.

130 Amendment of s 8O (Trust deemed to be sanctioned under Collections Act 1966)

Section 8O, ‘Trust’—

omit, insert—

‘Council’.

131 Amendment of s 8P (Term of office to continue)

- (1) Section 8P, ‘(other than an official member) or the Trust’—

omit.

136 Insertion of new pt 4 hdg and pt 4 div 1 hdg

After section 21—

insert—

‘Part 4 Transitional provisions

**‘Division 1 Transitional provision for Health
Legislation Amendment Act 2001’.**

137 Insertion of new pt 4, div 2

After section 22—

insert—

**‘Division 2 Transitional provisions for Water
and Other Legislation Amendment
Act 2010**

‘23 Definitions for div 2

‘In this division—

former Trust means the Queensland Institute of Medical Research Trust under this Act as in force from time to time before the trust abolition day.

trust abolition day means the day section 24 commences.

Trust Fund means the Trust Fund established under this Act, section 8N as in force from time to time before the trust abolition day.

‘24 Abolition of the former Trust

‘(1) At the trust abolition day—

- (a) the former Trust is abolished; and
- (b) the members of the former Trust stop being members of the former Trust.

[s 137]

- ‘(2) This section does not affect the member’s appointment in another office.
- ‘(3) No compensation is payable to the member because of this section.

‘25 The Council is the legal successor

- ‘(1) The Council is the successor in law of the former Trust.
- ‘(2) Subsection (1) is not limited by another provision of this Act.

‘26 Assets and liabilities etc.

- ‘(1) At the trust abolition day—
 - (a) the assets and liabilities of the former Trust immediately before the trust abolition day become the assets and liabilities of the Council; and
 - (b) an amount in the Trust Fund becomes an asset of the Council; and
 - (c) any contracts, undertakings or arrangements to which the former Trust is a party, in force immediately before the trust abolition day—
 - (i) are taken to have been entered into by the Council; and
 - (ii) may be enforced against or by the Council; and
 - (d) any property that, immediately before the trust abolition day, was held on trust or subject to a condition by the former Trust continues to be held on the same trust, or subject to the same condition, by the Council.
- ‘(2) The registrar of titles or other person responsible for keeping a register for dealings in property must, if asked by the Council, record the vesting of property under this section in the Council.

‘27 Proceedings

- ‘(1) A proceeding that could have been started by or against the former Trust before the trust abolition day may be started by or against the Council.
- ‘(2) From the trust abolition day, an existing proceeding may be continued and finished by or against the Council.
- ‘(3) In this section—
- existing proceeding* means a proceeding that—
- (a) before the trust abolition day, was taken by or against—
 - (i) the former Trust; or
 - (ii) a member of the former Trust in the capacity as a member of the former Trust; and
 - (b) has not been finished before the trust abolition day.

‘28 Records of the former Trust

‘On the trust abolition day, records of the former Trust become records of the Council.

‘29 Things done by the former Trust

‘From the trust abolition day, anything done by the former Trust under this Act before the trust abolition day is taken to have been done by the Council.

‘30 Rights, interests and obligations of the former Trust under this Act

‘On the trust abolition day, a right, interest or obligation of the former Trust under this Act immediately before the trust abolition day becomes a right, interest or obligation of the Council.

[s 137]

‘31 References to the former Trust

‘From the trust abolition day—

- (a) in an Act or document, a reference to the former Trust is, if the context permits, taken to be a reference to the Council; and
- (b) the official seal of the Trust affixed to a document is taken to be the official seal of the Council.

‘32 Members of the Council go out of office

‘(1) At the commencement of this section, a relevant member goes out of office.

‘(2) No compensation is payable to the relevant member because of this section.

‘(3) In this section—

relevant member means a member of the Council, other than the chairperson.

‘33 Chairperson does not go out of office

‘(1) To avoid any doubt, it is declared that despite the *Water and Other Legislation Amendment Act 2010*, section 126, the chairperson does not go out of office and the office of chairperson is not vacated.

‘(2) Despite section 5B, the term of appointment of the chairperson is taken to end 3 years from the day this section commences.’.

Part 11 **Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009**

138 Act amended

This part amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

139 Amendment of s 4 (Achievement of purposes)

Section 4(2)(a), note, third dot point, ‘Bulk Water’—
omit.

140 Insertion of new s 30A

Chapter 2, part 3—
insert—

‘30A Publication of participation agreement etc.

- ‘(1) This section applies if—
- (a) a distributor-retailer or local government enters into a participation agreement; or
 - (b) the Minister makes a participation agreement for a distributor-retailer; or
 - (c) a participation agreement entered into by a distributor-retailer or a local government or made by the Minister is amended.
- ‘(2) The distributor-retailer or local government must, within 30 days after the agreement is entered into or the amendment takes effect, publish on its website—
- (a) a copy of the participation agreement or amendment; and

- (b) a brief summary of the agreement, or the agreement as amended, that complies with subsection (3).

Maximum penalty—200 penalty units.

- ‘(3) As a minimum, the summary must refer to each of the matters mentioned in section 20(1).’.

141 Replacement of s 48 (Chief executive officer’s responsibilities)

Section 48—

omit, insert—

‘48 Chief executive officer’s responsibilities

- ‘(1) A distributor-retailer’s chief executive officer is—
- (a) responsible for managing its affairs under this Act, other relevant legislation and the board’s policies; and
- (b) for the following provision or Acts, taken to be its principal officer—
- the *Evidence Act 1977*, section 134A
 - the *Right to Information Act 2009*
 - the *Information Privacy Act 2009*.
- ‘(2) However, performance of the responsibility under subsection (1)(a) is subject to the board’s directions.’.

142 Amendment of s 53AE (Provision for market rules)

Section 53AE—

insert—

- ‘(2) On and from 1 July 2010, all participating local governments of all distributor-retailers cease to be grid customers under the market rules.’.

143 Amendment of ch 2A, pt 3, hdg (Charges for water services and wastewater services)

Chapter 2A, part 3, heading, after ‘services’—

insert—

‘**and other matters**’.

144 Amendment of s 53AS (Application of pt 3)

(1) Section 53AS(1), ‘any for’—

omit, insert—

‘any of’.

(2) Section 53AS(1)—

insert—

‘(c) a charge under the Planning Act, section 755K;

(d) a charge under an agreement under the Planning Act, section 755L or 755M;

(e) a liability mentioned in section 77I that is an infrastructure charge—

(i) owed to distributor-retailer under section 77J; or

(ii) the benefit of which is, under section 77K, shared with a participating local government of the distributor-retailer.

Editor’s note—

Planning Act, sections 755K (Funding trunk infrastructure), 755L (Agreements about, and alternatives to, paying infrastructure charge) and 755M (Agreements about, and alternatives to, paying regulated infrastructure charge)’.

145 Amendment of s 53AT (Interest)

Section 53AT(3)(b), ‘that the local government’—

omit, insert—

‘the distributor-retailer’.

146 Insertion of new ch 2A, pt 3A

Chapter 2A—

insert—

‘Part 3A Personal details requirements

‘53AXA Application of pt 3A

‘This part applies if an authorised person appointed by a distributor-retailer—

- (a) finds a person committing an infringement notice offence; or
- (b) finds a person in circumstances that lead the authorised person to reasonably suspect a person has just committed an infringement notice offence; or
- (c) has information that leads the authorised person to reasonably suspect a person has just committed an infringement notice offence.

‘53AXB Power to require name and residential address

- ‘(1) The authorised person may require the person to state the person’s name and residential address.
- ‘(2) When making the requirement, the authorised person must give the person an offence warning.
- ‘(3) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—35 penalty units.

‘53AXC Power to require evidence of name or residential address

- ‘(1) The authorised person may also require the person to give evidence of the correctness of the stated name or residential address if, in the circumstances, it would be reasonable to expect the person to—

-
- (a) be in possession of evidence of the correctness of the stated name or residential address; or
 - (b) otherwise be able to give the evidence.
- ‘(2) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—35 penalty units.

‘53AXD Exception if infringement notice offence not proved

‘The person does not commit an offence under this part if—

- (a) the requirement was made because the authorised person suspected the person has committed an infringement notice offence; and
- (b) the person is not proved to have committed the offence.’.

147 Omission of s 53AZ (Code supersedes customer service standards)

Section 53AZ—

omit.

148 Replacement of ch 2C, pt 2, div 7 (Power to require name and address in connection with trade waste)

Chapter 2C, part 2, division 7—

omit, insert—

‘Division 7 Personal details requirements

‘53DB Application of div 7

‘This division applies if a trade waste officer—

- (a) finds a person committing a trade waste offence; or

- (b) finds a person in circumstances that lead the officer to reasonably suspect a person has just committed a trade waste offence; or
- (c) has information that leads the officer to reasonably suspect a person has just committed a trade waste offence.

‘53DC Power to require name and residential address

- ‘(1) The trade waste officer may require the person to state the person’s name and residential address.
- ‘(2) When making the requirement, the trade waste officer must give the person an offence warning.
- ‘(3) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—35 penalty units.

‘53DD Power to require evidence of name or residential address

- ‘(1) The trade waste officer may also require the person to give evidence of the correctness of the stated name or residential address if, in the circumstances, it would be reasonable to expect the person to—
 - (a) be in possession of evidence of the correctness of the stated name or residential address; or
 - (b) otherwise be able to give the evidence.
- ‘(2) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—35 penalty units.

‘53DE Exception if trade waste offence not proved

‘The person does not commit an offence under this division if—

- (a) the requirement was made because the trade waste officer suspected the person has committed a trade waste offence; and
- (b) the person is not proved to have committed the offence.’.

149 Amendment of ch 4, hdg (Customer water and wastewater code)

Chapter 4, heading, after ‘code’—

insert—

‘and other customer service provisions’.

150 Amendment of s 93 (Minister’s power to make code)

Section 93(2) and (3)—

omit, insert—

- ‘(2) The code is not subordinate legislation.’.

151 Amendment of s 94 (Particular matters code may provide for)

- (1) Section 94(c)(ii), from ‘recovered’—

omit, insert—

‘recovered;’.

- (2) Section 94—

insert—

‘Note—

Disputes arising between particular customers and a distributor-retailer about a function or obligation of the distributor-retailer under the code may be referred to the energy and water ombudsman under the *Energy and Water Ombudsman Act 2006*, section 18A.’.

- (3) Section 94—

insert—

[s 152]

- ‘(2) The code may be limited in its application to particular types of customers and particular types of water services and wastewater services.
- ‘(3) Subsection (2) does not limit the *Statutory Instruments Act 1992*, section 24 or 25.
- ‘(4) The code may impose additional requirements to those mentioned in part 4.’.

152 Replacement of s 94A (Obligation to comply with code)

Section 94A—

omit, insert—

‘94AA Gazettal and taking of effect of code

- ‘(1) The Minister must, as soon as practicable after making the code, publish a gazette notice stating the Minister has made the code and where it may be inspected.
- ‘(2) The code takes effect on the later of the following days—
 - (a) a day of effect stated in the gazette notice;
 - (b) if no day of effect is stated in the notice—the day the notice is gazetted.

‘94AB Tabling of code

- ‘(1) Within 21 sitting days after the code takes effect, the Minister must table a copy in the Legislative Assembly.
- ‘(2) The copy is tabled for information only.
- ‘(3) A failure to table the copy does not affect the code’s ongoing effect.’.

153 Amendment of s 95 (Public notice about availability of draft code)

Section 95(3)—

omit, insert—

- ‘(3) The final submission day must not be earlier than—
- (a) for the first draft code prepared—14 days after the day the notice is published; and
 - (b) for each subsequent draft code prepared—28 days after the day the notice is published.’.

154 Omission of s 98 (No regulatory impact statement for code)

Section 98—

omit.

155 Insertion of new ch 4, pt 3A

Chapter 4—

insert—

‘Part 3A Code administration

‘99A Commission to advise Minister

‘The commission may advise the Minister about matters relating to the code, including—

- (a) the contents of the code; or
- (b) matters the commission considers should be dealt with in the code.

‘99AAA Distributor-retailer to give report to commission

‘A distributor-retailer must, in the way required under a regulation, give the commission a report about complaints received by the distributor-retailer relating to matters mentioned in the code.

Maximum penalty—100 penalty units.’.

156 Amendment of ch 4, pt 4, hdg (Interim customer service provisions)

Chapter 4, part 4, heading, ‘Interim’—

omit, insert—

‘Other’.

157 Omission of ss 99AA and 99AB

Sections 99AA and 99AB—

omit.

158 Amendment of s 99AD (Customer service charter)

Section 99AD(1)(a), before ‘this part’—

insert—

‘the customer water and wastewater code and’.

159 Replacement of s 99AE (Access to customer service charter)

Section 99AE—

omit, insert—

‘99AE Updating of and access to customer service charter

- ‘(1) A distributor-retailer must update its customer service charter as soon as practicable to take account of the provisions of the customer water and wastewater code or this part.
- ‘(2) After the first code is made and the distributor-retailer updates its customer service charter under subsection (1), the distributor-retailer must include a copy of the updated customer service charter—
 - (a) with the first account given to each customer after the code is made; or
 - (b) with a later account agreed to by the Minister.

-
- ‘(3) A distributor-retailer must give a person a copy of its customer service charter, free of charge, if—
- (a) the person asks for a copy; and
 - (b) the person has not previously been given a copy of the customer service charter under this section.’

160 Amendment, relocation and renumbering of s 99AF (Obligation to comply with part)

- (1) Section 99AF—

insert—

- ‘(2) A proceeding relating to an offence under subsection (1) may be prosecuted even though the code, or an order under the *Energy and Water Ombudsman Act 2006*, provides for the payment of compensation relating to matters relevant to the offence.’

- (2) Section 99AF, as amended—

relocate and renumber, in chapter 4, part 4, division 1, as section 99AB.

161 Insertion of new s 99AFA

Chapter 4, part 4, division 2, subdivision 1, before section 99AG—

insert—

‘99AFA Distributor-retailer may accept meter reading by customer

‘If asked by a customer to do so in a particular case, a distributor-retailer may accept the reading supplied by the customer of the meter recording the customer’s water consumption as the water consumption of the customer for a particular period.’

162 Amendment of s 99AH (Methods of charging)

- (1) Section 99AH, heading—

omit, insert—

‘99AH Methods and basis of charging’.

(2) Section 99AH—

insert—

‘(2) However, a distributor must not give an estimated account to a customer for 2 or more consecutive periods.

Example—

It may be a reasonable excuse for an offence under section 99AB relating to a contravention of subsection (2) that reasonable access was not available to the meter at the customer’s premises.

‘(3) Subsection (4) applies if the distributor-retailer gives the customer an estimated account.

‘(4) The estimated account must be calculated—

(a) if the distributor-retailer has previously given the customer an account for water services or waste water services for premises the subject of the account—having regard to the most recent account the distributor-retailer has given the customer for water services or wastewater services for the premises; or

(b) if paragraph (a) does not apply and the customer and the distributor-retailer agree about the basis on which the estimated account is to be calculated—on the agreed basis; or

(c) if paragraphs (a) and (b) do not apply—on another reasonable basis decided by the distributor-retailer.

‘(5) Despite subsection (1), the first account a distributor-retailer gives a customer for water services or wastewater services for particular premises must be based on a meter reading under section 99AFA or 99AG conducted specifically for the premises.’.

163 Amendment of s 99AR (Non-residential customers)

Section 99AR(2)(b), ‘, under section 99AQ(2),’—
omit.

164 Insertion of new s 99ASA

Chapter 4, part 4, division 3, subdivision 1—
insert—

‘99ASA Annual notice of security

- ‘(1) This section applies if a customer has given security to a distributor-retailer.
- ‘(2) The distributor-retailer must give the customer an annual statement containing the following details—
- (a) the amount of security held;
 - (b) the difference between the security given by the customer and the amount mentioned in paragraph (a);
 - (c) any other matter—
 - (i) prescribed under a regulation; or
 - (ii) required under the customer water and wastewater code.’.

165 Amendment of s 99AT (Restricting water supply for not paying charges or giving security)

Section 99AT(1)(b)—
omit, insert—

- ‘(b) a residential customer or non-residential customer of the distributor-retailer does not—
- (i) pay a charge for the service; or
 - (ii) give security requested under subdivision 1 for the service; and’.

166 Insertion of new ch 4, pt 4, div 3, sdiv 3

Chapter 4, part 4, division 3—

insert—

‘Subdivision 3 Publication of, and exemption from, charges

‘99ATA Publication etc. of charges

- ‘(1) A distributor-retailer must publish and maintain on its website details of its charges relating to its water services and wastewater services for the current financial year.
- ‘(2) The details of the charges must be published under subsection (1) by 30 June of the financial year preceding the financial year to which the charges relate.
- ‘(3) Also, a distributor-retailer must publish and maintain on its website details of its proposed charges relating to the financial year immediately after the current financial year.
- ‘(4) The details of the proposed charges must be published under subsection (3) by 31 March of the financial year preceding the financial year to which the proposed charges relate.
- ‘(5) As soon as practicable after the distributor-retailer publishes details of charges or proposed charges under subsections (1) to (4), the distributor-retailer must publish a notice about the charges in a newspaper circulating in the SEQ region.
- ‘(6) The notice must state—
 - (a) that details of charges that apply, or are proposed to apply, have been published on the distributor-retailer’s website; and
 - (b) the address of the website; and
 - (c) that a copy of a document showing the charges is available, free of charge, from the distributor-retailer; and
 - (d) where and how the copy may be obtained.

-
- ‘(7) A distributor-retailer must give a person a document showing the distributor-retailer’s charges relating to its water services and wastewater services for a particular financial year, free of charge, if the person asks for, and has not previously been given, a document showing the charges.

‘99ATB Exemption from charges

- ‘(1) This section applies in relation to water services or wastewater services provided by a distributor-retailer to premises if the premises are—
- (a) land that is exempted from rates under the *Local Government Act 2009*, section 93(3)(a), (b), (c), (d), (e), (f), (g) or (j); or
 - (b) prescribed under a regulation.
- ‘(2) The distributor-retailer must not issue an account to an entity for providing the water services or wastewater services to the premises unless the entity has asked for the services to be provided.

‘99ATC Local government must provide information to distributor-retailer

- ‘(1) Each participating local government for a distributor-retailer must—
- (a) as soon as practicable after the commencement of this section, give the distributor-retailer details sufficient to identify all land mentioned in section 99ATB(1)(a) that is in the local government’s local government area; and
 - (b) as soon as practicable after land in the local government’s local government area becomes land mentioned in section 99ATB(1)(a), give the distributor-retailer details sufficient to identify the land; and
 - (c) as soon as practicable after land in the local government’s local government area stops being land

mentioned in section 99ATB(1)(a), give the distributor-retailer details sufficient to identify the land.

Maximum penalty—1665 penalty units.

‘(2) This section applies despite section 53AI.’.

167 Amendment of s 99AU (Application of div 4)

Section 99AU, ‘section’—

omit, insert—

‘division’.

168 Amendment of s 99AV (Matters required to be stated in account)

(1) Section 99AV(1)(h)—

omit.

(2) Section 99AV(1)(c) to (g)—

renumber as section 99AV(1)(d) to (h).

(3) Section 99AV(1)—

insert—

‘(c) whether the account is based on an actual reading of a meter or an estimate of what a meter would read;’.

(4) Section 99AV(1)(f), as renumbered, ‘enquires’—

omit, insert—

‘enquiries’.

(5) Section 99AV(1)(m)—

omit, insert—

‘(m) if the customer is a residential customer—a comparison with the consumption of other residential customers (whether actual or estimated);’.

(6) Section 99AV(1)—

insert—

‘(n) any matter prescribed under a regulation for this section.’

169 Insertion of new s 100DA

After section 100D—

insert—

‘100DA Requirement for distributor-retailer to give information

- ‘(1) The commission may by notice given to a distributor-retailer require the distributor-retailer to give the commission, within a reasonable period stated in the notice, stated information the commission reasonably requires relating to the administration of this Act.
- ‘(2) When making the requirement, the commission must warn the distributor-retailer it is an offence to fail to comply with the requirement unless the distributor-retailer has a reasonable excuse.
- ‘(3) The distributor-retailer must comply with the requirement unless the distributor-retailer has a reasonable excuse.

Maximum penalty—200 penalty units.’

170 Amendment of s 100F (Application of Water Supply Act enforcement provisions for particular offences)

- (1) Section 100F(1)(b)—

omit, insert—

‘(b) sections 30A, 99AB and 113;’.

- (2) Section 100F(3)(b), ‘section 94A’—

omit, insert—

‘sections 30A, 99AB and 113’.

171 Amendment of s 109 (Deferral of distributor-retailer's liability for additional public entity road work expenses)

Section 109(2)—

omit.

172 Insertion of new ch 6, pt 3

Chapter 6—

insert—

**'Part 3 Transitional provisions for the
Water and Other Legislation
Amendment Act 2010**

'111 Definition for pt 3

'In this part—

commencement means commencement of the provision in which the term is used.

'112 Amendments to ss 53AE and 53AS

'Sections 53AE and 53AS, as amended under the *Water and Other Legislation Amendment Act 2010*, are taken to have been in force from 1 July 2010.'

'113 Publication of participation agreement etc.

'(1) Subsection (2) applies if, before the commencement—

(a) a distributor-retailer or local government entered into a participation agreement; or

(b) a participation agreement entered into by a distributor-retailer or a local government has been amended.

'(2) The distributor-retailer or local government must, within 30 days after the commencement, publish on its website—

-
- (a) a copy of the participation agreement or amendment; and
 - (b) a brief summary of the agreement as in force at the commencement that complies with subsection (3).

Maximum penalty—200 penalty units.

- ‘(3) As a minimum, the summary must refer to each of the matters mentioned in section 20(1).

‘114 Refund of certain charges

- ‘(1) This section applies if—
 - (a) before the commencement, a distributor-retailer charged an entity for providing water services or wastewater services to premises; and
 - (b) at the time the charge was imposed, the premises were premises mentioned in section 99ATB(1); and
 - (c) the entity has paid the amount of the charge to the distributor-retailer.
- ‘(2) If asked by the entity to do so, the distributor-retailer must refund the amount paid to the entity within 30 days after receiving the request.
- ‘(3) An amount payable by the distributor-retailer under subsection (2) is a debt due by it to the entity.

‘115 Matters relating to first making of code

- ‘(1) This section applies to the draft of the first code prepared under section 95.
- ‘(2) It is declared that the draft always could have been prepared on the basis of this Act, and the *Energy and Water Ombudsman Act 2006*, as amended, or proposed to be amended, by the *Water and Other Legislation Amendment Act 2010*.’.

[s 173]

173 Amendment of schedule (Dictionary)

(1) Schedule—

insert—

‘infringement notice offence means an offence prescribed under the *State Penalties Enforcement Act 1999* to be an infringement notice offence for this Act or the Water Supply Act.

non-residential customer means a customer who is a non-residential customer under section 99AR(2).

offence warning, for a provision about a requirement, means a warning that, without a reasonable excuse, it is an offence for the person of whom the requirement was made not to comply with the requirement.

reasonably suspects means to suspect on grounds that are reasonable in the circumstances.

residential customer means a customer who is a residential customer under section 99AQ(2).’.

(2) Schedule, definition *approval holder*, second paragraph (b)—

renumber as paragraph (c).

(3) Schedule, definition *relevant action*, ‘chapter 2’—

omit, insert—

‘chapter 3’.

Part 12 Amendment of Sustainable Planning Act 2009

174 Act amended

This part amends the *Sustainable Planning Act 2009*.

175 Amendment of sch 1 (Prohibited development)

(1) Schedule 1, item 1 and heading—

omit, insert—

‘For agricultural or animal husbandry activities in a wild river area	
1	<p>Development that is—</p> <ul style="list-style-type: none">(a) a material change of use of premises in a wild river area if the proposed use is for agricultural activities, to the extent the development is—<ul style="list-style-type: none">(i) in a wild river high preservation area; or(ii) in a wild river preservation area or wild river special floodplain management area in relation to the production of a high risk species; or(iii) in a wild river special floodplain management area and for agricultural activities that involve irrigation; or(b) a material change of use of premises in a wild river area if the proposed use is for animal husbandry activities, to the extent the development is in a wild river high preservation area or a wild river special floodplain management area; or(c) operational work for agricultural activities in a wild river area, if the operations are assessable development prescribed under section 232(1), to the extent the development is—<ul style="list-style-type: none">(i) in a wild river high preservation area; or(ii) in a wild river preservation area or a wild river special floodplain management area in relation to the production of a high risk species; or(d) operational work for animal husbandry activities in a wild river area, if the operations are assessable development prescribed under section 232(1), to the extent the development is in a wild river high preservation area or a wild river special floodplain management area.’

(2) Schedule 1, item 6 and heading—

[s 175]

omit, insert—

‘Aquaculture, or constructing or raising waterway barrier works, in wild river high preservation area or wild river special floodplain management area	
6	<p>The following assessable development prescribed under section 232(1)—</p> <ul style="list-style-type: none">(a) to the extent it is development in a wild river high preservation area or a wild river special floodplain management area—a material change of use of premises for aquaculture;(b) to the extent it is development in a wild river high preservation area or a wild river special floodplain management area—operational work that is the constructing or raising of a waterway barrier works, other than operational work—<ul style="list-style-type: none">(i) for specified works in the area; or(ii) for the maintenance of an existing waterway barrier works; or(iii) that is the constructing or raising of temporary waterway barrier works associated with the carrying out of operational work mentioned in subparagraph (i) or (ii); or(iv) that is the constructing of a new waterway barrier works, or the raising of an existing waterway barrier works, in the Lake Eyre Basin for storing water for town water supply demands; or(v) that is authorised wild river operational work for the area.’.

- (3) Schedule 1, item 10, column 2, after ‘high preservation area’—

insert—

‘or a wild river special floodplain management area’.

- (4) Schedule 1, item 10, column 2, paragraph (d), ‘or residential complexes’—

omit, insert—

‘residential complexes, or another commercial, industrial or residential purpose in a designated urban area’.

- (5) Schedule 1, item 11, heading—

omit.

- (6) Schedule 1, item 11, column 2, paragraph (b)(ii), ‘or residential complexes’—

omit, insert—

‘residential complexes, or another commercial, industrial or residential purpose in a designated urban area’.

- (7) Schedule 1, item 12, column 2, paragraph (a), ‘area that’—

omit, insert—

‘area, or a wild river special floodplain management area, that’.

- (8) Schedule 1, item 12, column 2, paragraph (a), ‘wild river high preservation area; or’—

omit, insert—

‘area, other than operational work—

- (i) for the maintenance of works as defined under the *Water Act 2000*; or
- (ii) that increases the interference with water in the Lake Eyre Basin, to the extent the interference is necessary for taking water for town water supply demands; or
- (iii) that is authorised wild river operational work for the area; or’.

- (9) Schedule 1, item 12, column 2, paragraph (b), after ‘area’—

insert—

‘, other than authorised wild river operational work for the area,’.

- (10) Schedule 1, item 12, column 2, paragraph (c), after ‘high preservation area’—

insert—

‘or a wild river special floodplain management area’.

- (11) Schedule 1, item 12, column 2, paragraph (d), after ‘management area’—

insert—

‘or a wild river special floodplain management area’.

[s 176]

176 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

‘authorised wild river operational work, for a wild river area, means operational work that is necessary for the carrying out of an activity, or the taking of a natural resource, that may be continued, or started and continued, under the *Wild Rivers Act 2005*, section 17(3)(a) as if the wild river declaration for the area had not been made.

Lake Eyre Basin see the *Wild Rivers Act 2005*, schedule.

wild river special floodplain management area means a special floodplain management area under the *Wild Rivers Act 2005*.’.

Part 13 Amendment of Vegetation Management Act 1999

177 Act amended

This part amends the *Vegetation Management Act 1999*.

178 Amendment of s 17 (Making declaration)

- (1) Section 17(1A), after ‘preservation area’—

insert—

‘, other than an excluded part for the area,’.

- (2) Section 17(2A), ‘mentioned in’—

omit, insert—

‘that is an area of high nature conservation value under’.

- (3) Section 17—

insert—

‘(4) In this section—

excluded part, for a wild river high preservation area, means a part of the area that—

- (a) is a category X area on a PMAV or a category C area; or
- (b) is an area that, under section 20CA, the chief executive can make as a category X area on a PMAV; or
- (c) is an area that, under section 20CA, the chief executive could make as a category X area on a PMAV if the area were not a declared area; or
- (d) is regrowth vegetation that has not been cleared since 31 December 1989.’

179 Amendment of s 20F (Copies of PMAV given to owners)

(1) Section 20F(1), before ‘owner’—

insert—

‘affected’.

(2) Section 20F(2), ‘more owners’—

omit, insert—

‘more affected owners’.

(3) Section 20F—

insert—

‘(3) In this section—

affected owner, of land included in a PMAV, means an owner of the land if all, or a part of, the land will be affected by a change to the boundary of a vegetation category area in the PMAV.’

180 Amendment of s 22A (Particular vegetation clearing applications may be assessed)

Section 22A(2A)(a), ‘subsection (2)(a), (f), (g) or (i)’—

[s 181]

omit, insert—

‘subsection (2)(a) or (i)’.

Part 14 Amendment of Water Act 2000

181 Act amended

This part amends the *Water Act 2000*.

182 Amendment of s 203 (Definitions for pt 6)

Section 203, definition *petroleum tenure holder—*
omit.

183 Amendment of s 266 (Applying for permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring)

Section 266(4)(a), ‘area or’—

omit, insert—

‘area, a wild river special floodplain management area or’.

184 Amendment of s 268 (Criteria for deciding application for a permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring)

(1) Section 268, ‘the following’—

omit, insert—

‘all of the following—’.

(2) Section 268(h)—

omit, insert—

‘(h) if the application relates to a wild river high preservation area, a wild river special floodplain management area or a nominated waterway in a wild river preservation area—the wild river declaration for the area, including any code, for the proposed activities, mentioned in the declaration;’.

185 Amendment of s 280 (Applying for allocation of quarry material)

Section 280(3), ‘for specified works, or residential complexes,’—

omit.

186 Amendment of s 282 (Criteria for deciding application for allocation of quarry material)

Section 282(3)—

omit, insert—

- ‘(3) If any part of the application relates to a wild river area, the chief executive must not grant the application unless satisfied there is no other suitable source of quarry material that is—
- (a) outside a watercourse; and
 - (b) within a reasonable distance from where the quarry material will be used.’.

187 Replacement of s 345 (Main functions of commission)

Section 345—

omit, insert—

‘345 Main functions of commission

‘The commission’s main functions are—

- (a) to do the following for the SEQ region and designated regions—

[s 188]

- (i) advise the Minister on matters relating to water supply and demand management for water;
 - (ii) advise the Minister on the delivery of desired levels of service objectives for water supplied to the SEQ region and designated regions;
 - (iii) facilitate and implement regional water security programs;
 - (iv) ensure compliance with the programs and with commission water restrictions; and
- (b) the functions given to the commission under chapter 3’.

188 Amendment of s 347 (General powers)

Section 347, after ‘chapter’—

insert—

‘and chapter 3’.

189 Amendment of s 349 (Eligibility for appointment)

Section 349(b)—

insert—

- ‘(v) an executive officer or employee of a corporation that is a holder of a CMA tenure.’.

190 Amendment of s 360E (Other references)

Section 360E—

insert—

- ‘(c) impacts on underground water caused by the exercise of underground water rights by petroleum tenure holders.’.

191 Amendment of s 360F (Annual levy)

- (1) Section 360F, heading—

omit, insert—

‘360F Annual levy for water supply and demand management’.

(2) Section 360F(1), after ‘functions’—

insert—

‘, other than its functions under chapter 3.’.

192 Insertion of new s 360FA

Chapter 2A, part 2, division 7—

insert—

‘360FA Annual levy for underground water management

- ‘(1) The performance of the commission’s functions under chapter 3 are to be funded by an annual levy payable by each petroleum tenure holder.
- ‘(2) The levy must be worked out in the way prescribed under a regulation.
- ‘(3) The way the levy is worked out must be transparent and likely to be readily understood by petroleum tenure holders.
- ‘(4) The levy must be—
 - (a) based on the amount needed to recover the estimated costs to the commission of carrying out its functions under chapter 3; and
 - (b) apportioned, where practicable, between petroleum tenure holders or classes of holders according to the cost to the commission of carrying out functions specific to the holders or class of holders.
- ‘(5) For subsection (4)(a), the commission’s estimated costs must be—
 - (a) prepared by the commission in consultation with a relevant advisory body; and
 - (b) approved by the Minister.

[s 193]

- ‘(6) The levy must be paid in the amount, at the time and in the way prescribed under a regulation.
- ‘(7) If a petroleum tenure holder does not pay the levy as required under a regulation made under subsection (6), the State may recover from the holder the amount of the levy as a debt.’.

193 Amendment of s 360ZCB (When water efficiency management plan may be required)

Section 360ZCB(5), from ‘given’—

omit, insert—

‘given—

- (a) by a water service provider under subsection (1); or
- (b) under subsection (3) or (4).

Maximum penalty—500 penalty units.’.

194 Amendment of s 360ZE (Consultation and giving notice of commission water restriction)

Section 360ZE(5)(a), ‘authorised person’—

omit, insert—

‘authorised officer’.

195 Insertion of new ch 3

After section 360ZI—

insert—

‘Chapter 3 Underground water management

‘Part 1 Preliminary

‘Division 1 Interpretation

‘361 Purpose of ch 3

- ‘(1) The purpose of this chapter is to provide for the management of impacts on underground water caused by the exercise of underground water rights by petroleum tenure holders.
- ‘(2) This purpose is achieved primarily by—
- (a) providing a regulatory framework to—
 - (i) require petroleum tenure holders to monitor and assess the impact of the exercise of underground water rights on water bores and to enter into make good agreements with the owners of the bores; and
 - (ii) require the preparation of underground water impact reports that establish underground water obligations, including obligations to monitor and manage impacts on aquifers and springs; and
 - (iii) manage the cumulative impacts of the exercise of 2 or more petroleum tenure holders’ underground water rights on underground water; and
 - (b) giving the chief executive and the commission functions and powers for managing underground water.

‘362 Definitions for ch 3

‘In this chapter—

[s 195]

authorised use or purpose, of water, means the use or purpose for which the taking of the water is authorised under this Act.

baseline assessment see section 394.

bore owner, of a water bore, means the owner of the land on which the bore is located.

bore trigger threshold, for an aquifer, means a decline in the water level in the aquifer that is—

- (a) if a regulation prescribes the bore trigger threshold for an area in which the aquifer is situated—the prescribed threshold for the area; or
- (b) otherwise—
 - (i) for a consolidated aquifer—5m; or
 - (ii) for an unconsolidated aquifer—2m.

closing CMA tenure means a petroleum tenure the area of which is within a cumulative management area for which the holder—

- (a) has given, before the cumulative management area for the tenure was declared, a notice of closure for the tenure; or
- (b) gives, within 6 months after the cumulative management area for the tenure is declared, a notice of closure for the tenure.

CMA tenure means a petroleum tenure the area of which is included in a cumulative management area.

consolidated aquifer means an aquifer consisting predominantly of consolidated sediment.

consultation day, for a proposed underground water impact report or final report, means the day a notice is first published about the proposed report under section 382(1).

impact considerations, in relation to a petroleum tenure holder, means the following—

-
- (a) the impacts, or likely impacts, of the exercise of the holder's underground water rights on a water bore or spring;
 - (b) the location and area of the holder's petroleum tenure;
 - (c) the holder's water monitoring authorities;
 - (d) existing water monitoring infrastructure or equipment put in place by the holder;
 - (e) existing make good agreements entered into by the holder;
 - (f) existing agreements entered into by the holder with other petroleum tenure holders about managing the impacts of the exercise of underground water rights.

make good obligations, of a petroleum tenure holder for a water bore, see section 409.

production testing means—

- (a) for a petroleum tenure granted under the *Petroleum and Gas (Production and Safety) Act 2004*, testing for petroleum production in the area of the petroleum tenure under—
 - (i) section 73 of that Act; or
 - (ii) if section 73 does not apply—section 152 of that Act; or
- (b) for a 1923 Act petroleum tenure granted under the *Petroleum Act 1923*—testing authorised under the petroleum tenure, for petroleum production in the area of the tenure.

relevant underground water rights means—

- (a) in relation to an underground water impact report, the underground water rights of—
 - (i) if the report is for a cumulative management area—the holders of each CMA tenure within the area to which the report relates, other than the holder of a closing CMA tenure; or

[s 195]

- (ii) if the report is for a petroleum tenure—the holder of the petroleum tenure; or
- (b) in relation to a final report for the end of a petroleum tenure—the underground water rights of the holder of the petroleum tenure.

report obligation means a requirement with which a responsible tenure holder must comply under an approved underground water impact report or final report.

Note—

See, for example, sections 376 (Content of underground water impact report), 377 (Content of final report), 378 (Content of water monitoring strategy), 379 (Content of spring impact management strategy) and 390 (Compliance with approved reports).

responsible entity see section 368.

responsible tenure holder see section 369.

start day, for a petroleum tenure, means—

- (a) the earlier of the following—
 - (i) the day production testing starts in the area of the petroleum tenure;
 - (ii) the day production of petroleum starts in the area of the petroleum tenure; or
- (b) if production testing or production of petroleum has already started in the area of the tenure on the day this definition commences—the day this definition commences.

unconsolidated aquifer means an aquifer other than a consolidated aquifer.

underground water obligation, of a petroleum tenure holder, means a make good obligation of the holder for a water bore, or a report obligation for which the holder is the responsible tenure holder.

water level, of an aquifer, means—

- (a) for artesian water—the level to which the water would, if it were tapped by a water bore and the water were

contained vertically above the surface of the land, rise naturally above the surface of the land; or

- (b) for subartesian water—if the aquifer were tapped by a water bore, the level of water in the water bore tapping the aquifer.

water monitoring bore means a water bore used for monitoring impacts on underground water caused by the exercise of underground water rights of petroleum tenure holders.

‘363 Water bores to which ch 3 applies

‘This chapter applies to a water bore if—

- (a) the taking of, or interference with, water from the bore is authorised under this Act; and
- (b) if the *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997* required a development approval under that Act in relation to the bore for operational work for the taking of, or interfering with, water under this Act— the approval has been granted.

‘364 References to petroleum tenure holder in ch 3

‘(1) This section applies if a petroleum tenure ends.

‘(2) Subsection (3) applies if—

- (a) the petroleum tenure was an authority to prospect under the *Petroleum Act 1923* and under part 6, division 1 of that Act the holder of the tenure became a lease holder; or
- (b) the petroleum tenure was an authority to prospect under the *Petroleum and Gas (Production and Safety) Act 2004* and under chapter 2, part 2, division 2 of that Act the holder of the tenure became a petroleum lease holder.

‘(3) A reference in this chapter—

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- (a) to the petroleum tenure is a reference to the authority to prospect and the lease or petroleum lease; and
 - (b) to the petroleum tenure holder includes a reference to the lessee or petroleum lease holder.
- ‘(4) Otherwise, a reference in this chapter to a petroleum tenure holder includes a reference to the holder of the petroleum tenure immediately before it ended.

‘Division 2 Cumulative management areas

‘365 Declaring cumulative management areas

- ‘(1) This section applies if the chief executive considers an area containing 2 or more petroleum tenures may be affected by the exercise of underground water rights by the tenure holders.
- ‘(2) The chief executive may, by gazette notice, declare the area to be a cumulative management area.
- ‘(3) The gazette notice must describe the area for which the declaration is made.
- ‘(4) The chief executive must, within 20 business days—
- (a) give notice of the declaration to the commission and each CMA tenure holder in the cumulative management area, other than the holder of a closing CMA tenure; and
 - (b) publish a map showing the cumulative management area on the department’s website.
- ‘(5) A failure to comply with subsection (4) does not invalidate or otherwise affect the declaration of the cumulative management area.

‘Division 3 General obligations of petroleum tenure holders

‘366 Obligation to use best endeavours to obtain approvals

‘(1) A petroleum tenure holder must use its best endeavours to obtain any approval necessary to comply with its obligations under this chapter.

‘(2) In this section—

approval includes a licence, permit, authorisation, consent, permission or other authority required under this Act or another Act.

‘367 Obligation to use best endeavours to obtain information

‘A responsible entity or other petroleum tenure holder must use its best endeavours to obtain all information about water bores necessary to comply with its obligations under this chapter.

Examples of using best endeavours—

- searching a database of information relevant to underground water management kept by the department
- asking a land owner to disclose the location and details of water bores

‘Part 2 Reporting

‘Division 1 Preliminary

‘368 Who is a *responsible entity*

‘A *responsible entity* is—

- (a) for a cumulative management area, other than an area that is within a closing CMA tenure—the commission;
or

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- (b) for a closing CMA tenure or a petroleum tenure other than a CMA tenure—the holder of the petroleum tenure.

‘369 Who is a *responsible tenure holder*

- ‘(1) A *responsible tenure holder*, for a make good obligation for a water bore or a report obligation, for a petroleum tenure to which an approved underground water impact or final report relates, is—
 - (a) if the report is an underground water impact report for a cumulative management area—the petroleum tenure holder identified in an underground water impact report as the responsible tenure holder for the obligation; or
 - (b) if the report is an underground water impact report or final report for a petroleum tenure, including a closing CMA tenure—the holder of the petroleum tenure.
- ‘(2) Also, a petroleum tenure holder directed under section 418 to undertake a bore assessment of a water bore is a *responsible tenure holder* for the make good obligations for the bore.

‘Division 2 Underground water impact reports

‘370 Obligation to give underground water impact report

- ‘(1) Subject to section 371, a responsible entity must, within the period or by the day mentioned in subsection (2) or (3), give the chief executive an underground water impact report that complies with subsection (2)(a) and (d) for—
 - (a) if the responsible entity is the commission—each cumulative management area; or
 - (b) if the responsible entity is a petroleum tenure holder—the petroleum tenure.

Maximum penalty—1665 penalty units.

- ‘(2) An underground water impact report must—
 - (a) comply with the requirements under division 4; and

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- (b) be given within the initial report period or, if the chief executive agrees to a longer period, that period; and
 - (c) be given within 10 business days after each third anniversary of the day the first underground water impact report for the cumulative management area or petroleum tenure took effect or, if the chief executive agrees to a later day, the later day; and
 - (d) be accompanied by a submissions summary under section 383.
- ‘(3) However, the chief executive may, by notice given to the responsible entity, require the entity to give the report—
- (a) for a report to which subsection (2)(b) applies—within a reasonable period that ends earlier than the initial report period; or
 - (b) for a report to which subsection (2)(c) applies—before the day mentioned in subsection (2)(c), if the earlier day allows the entity a reasonable period to give the report.
- ‘(4) In this section—
- initial report period*** means 14 months after—
- (a) if the responsible entity is the commission—the day the cumulative management area is declared; or
 - (b) if the responsible entity is a petroleum tenure holder—
 - (i) the start day for the tenure; or
 - (ii) if this section applies because of section 371(3)—the day the renewal of the petroleum tenure is granted.

‘371 When obligation to give underground water impact report does not apply

- ‘(1) This section applies if—
- (a) a petroleum tenure holder is required under section 370(1) to give the chief executive an underground water impact report; and

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- (b) before the report is given under that section, the petroleum tenure holder gives the chief executive a notice of closure for the tenure.
- ‘(2) Section 370 does not apply to the holder.
- ‘(3) However, section 370 does apply if, after the notice of closure is given, an application for renewal of the petroleum tenure, made under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, is granted.

‘Division 3 Notices of closure and final reports

‘372 Obligation to give notice of closure—general

- ‘(1) A petroleum tenure holder must, on the day any of the following happens, give the chief executive a notice of closure—
 - (a) the day that is 1 year before the term of the petroleum tenure ends, other than if the petroleum tenure is divided under the *Petroleum and Gas (Production and Safety) Act 2004*, chapter 2;
 - (b) the day the holder makes a surrender application for the petroleum tenure.

Maximum penalty—500 penalty units.

- ‘(2) The notice of closure must state—
 - (a) the details of the holder and petroleum tenure; and
 - (b) whether the petroleum tenure is ending or being surrendered; and
 - (c) if the petroleum tenure is ending—the day the petroleum tenure will end.
- ‘(3) If the petroleum tenure is a CMA tenure, including a closing CMA tenure, the holder must give the commission a copy of the notice of closure.
- ‘(4) In this section—

surrender application, for a petroleum tenure, means a surrender application for the tenure made under—

- (a) the *Petroleum and Gas (Production and Safety) Act 2004*, chapter 5, part 11; or
- (b) the *Petroleum Act 1923*, section 21 or 52.

‘373 Obligation to give notice of closure—relevant events

- ‘(1) This section applies to a petroleum tenure holder if—
 - (a) the obligation to give a final report does not apply to the holder because the holder makes a renewal application for the tenure before the time for making the application expires; and
 - (b) after the holder gives the chief executive a written declaration stating that the holder intends to apply for a renewal of the tenure, any of the following happens (each a *relevant event*)—
 - (i) the holder withdraws the renewal application;
 - (ii) the renewal application for the tenure is rejected;
 - (iii) the renewal application is granted, and the holder later makes a surrender application for the tenure.
- ‘(2) The holder must, on the day the relevant event happens, give the chief executive a notice of closure complying with section 372(2).

Maximum penalty—500 penalty units.

‘374 Obligation to give final report

- ‘(1) This section applies if a notice of closure for a petroleum tenure is given by the holder of the petroleum tenure under section 372 or 373.
- ‘(2) The chief executive must, as soon as practicable after the notice of closure is received, give a notice requiring a final report to be given for the tenure within the reasonable period stated in the notice to—

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- (a) for a CMA tenure other than a closing CMA tenure—the commission as responsible entity for the cumulative management area; or
 - (b) for a closing CMA tenure or other petroleum tenure—the holder of the petroleum tenure.
- ‘(3) The chief executive must give a copy of a notice given to the commission for a cumulative management area under subsection (2)(a) to each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.
- ‘(4) Subject to section 375, the responsible entity must, within the period stated in the notice given under subsection (2), give the chief executive a final report for the petroleum tenure that complies with division 4.
- Maximum penalty—1665 penalty units.
- ‘(5) A final report must be accompanied by a submissions summary under section 383.

‘375 When obligation to give final report does not apply

- ‘(1) Subsection (2) applies if—
- (a) a holder’s petroleum tenure is ending other than by a surrender application; and
 - (b) the chief executive gives a notice to the holder under section 374(2); and
 - (c) before the last day by which the holder may apply for a renewal of the petroleum tenure under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*, the holder gives the chief executive a written declaration stating that the holder intends to apply for the renewal.
- ‘(2) Section 374(4) does not apply to the holder if the holder makes a renewal application for the tenure before the time for making the application expires, unless the holder later gives a notice of closure under section 373.

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- ‘(3) Subsection (4) applies if a petroleum tenure holder has made a surrender application for the tenure and, after a notice of closure is given, the holder withdraws the surrender application.
- ‘(4) Section 374(4) does not apply to the holder.

‘Division 4 Requirements for underground water impact reports and final reports

‘Subdivision 1 Content

‘376 Content of underground water impact report

‘An underground water impact report must include each of the following—

- (a) for the area to which the report relates—
- (i) the quantity of water produced or taken from the area because of the exercise of any previous relevant underground water rights; and
 - (ii) an estimate of the quantity of water to be produced or taken because of the exercise of the relevant underground water rights for a 3 year period starting on the consultation day for the report;
- (b) for each aquifer affected, or likely to be affected, by the exercise of the relevant underground water rights—
- (i) a description of the aquifer; and
 - (ii) an analysis of the movement of underground water to and from the aquifer, including how the aquifer interacts with other aquifers; and
 - (iii) an analysis of the trends in water level change for the aquifer because of the exercise of the rights mentioned in paragraph (a)(i); and

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- (iv) a map showing the area of the aquifer where the water level is predicted to decline, because of the taking of the quantities of water mentioned in paragraph (a), by more than the bore trigger threshold within 3 years after the consultation day for the report; and
- (v) a map showing the area of the aquifer where the water level is predicted to decline, because of the exercise of relevant underground water rights, by more than the bore trigger threshold at any time;

Note—

If the underground water impact report or final report is approved, the mapped areas mentioned in subparagraphs (iv) and (v) establish immediately affected and long-term affected areas under section 387.

- (c) a description of the methods and techniques used to obtain the information and predictions under paragraph (b);
- (d) a summary of information about all water bores in the area shown on a map mentioned in paragraph (b)(iv), including the number of bores, and the location and authorised use or purpose of each bore;
- (e) a program for—
 - (i) conducting an annual review of the accuracy of each map prepared under paragraph (b)(iv) and (v); and
 - (ii) giving the chief executive a summary of the outcome of each review, including a statement of whether there has been a material change in the information or predictions used to prepare the maps;
- (f) a water monitoring strategy;
- (g) a spring impact management strategy;
- (h) if the responsible entity is the commission—

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- (i) a proposed responsible tenure holder for each report obligation mentioned in the report; and
 - (ii) for each immediately affected area—the proposed responsible tenure holder or holders who must comply with any make good obligations for water bores within the immediately affected area;
- (i) other information or matters prescribed under a regulation.

‘377 Content of final report

- ‘(1) A final report must include each of the matters mentioned in section 376, other than the following—
- (a) an estimate of the quantity of water mentioned in section 376(a)(ii);
 - (b) a map mentioned in section 376(b)(iv);
 - (c) any of the information mentioned in section 376(d);
 - (d) a program mentioned in section 376(e);
 - (e) if the responsible entity is the commission—the proposed responsible tenure holders mentioned in section 376(h).
- ‘(2) Also, a final report must include—
- (a) a summary of information about all water bores in the area shown on a map mentioned in section 376(b)(v), including the number of bores, and the location and authorised use or purpose of each bore; and
 - (b) a summary about how the make good obligations of the responsible tenure holder for each water bore to which the final report relates have been complied with by the holder over the term of the tenure; and
 - (c) a summary of the make good obligations of the responsible tenure holder for each water bore that have not yet been complied with by the holder; and

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- (d) a plan about how the obligations mentioned in paragraph (c) will be complied with.

'378 Content of water monitoring strategy

- '(1) A responsible entity's water monitoring strategy must include the following for each immediately affected area and long-term affected area identified in its underground water impact report or final report—
 - (a) a strategy for monitoring—
 - (i) the quantity of water produced or taken from the area because of the exercise of relevant underground water rights; and
 - (ii) changes in the water level of, and the quality of water in, aquifers in the area because of the exercise of the rights;
 - (b) the rationale for the strategy;
 - (c) a timetable for implementing the strategy;
 - (d) a program for reporting to the commission about the implementation of the strategy.
- '(2) The strategy for monitoring mentioned in subsection (1)(a) must include—
 - (a) the parameters to be measured; and
 - (b) the locations for taking the measurements; and
 - (c) the frequency of the measurements.
- '(3) If the strategy is prepared for an underground water impact report, the strategy must also include a program for the responsible tenure holder or holders under the report to undertake a baseline assessment for each water bore that is—
 - (a) outside the area of a petroleum tenure; but
 - (b) within the area shown on the map prepared under section 376(b)(v).

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- ‘(4) If the strategy is prepared for a final report, the strategy must also include a statement about any matters under a previous strategy that have not yet been complied with.

‘379 Content of spring impact management strategy

- ‘(1) A responsible entity’s spring impact management strategy must include each of the following for each potentially affected spring in the area to which the entity’s underground water impact report or final report relates—
- (a) the details of the spring, including its location;
 - (b) an assessment of the connectivity between the spring and the aquifer over which the spring is located;
 - (c) the predicted risk to, and likely impact on, the ecosystem and cultural and spiritual values of the spring because of a decline in water level of the aquifer over which the spring is located;
 - (d) the options available to prevent or mitigate any impact mentioned in paragraph (c);
 - (e) a strategy, including the actions to be taken, for preventing or mitigating the predicted impacts on the spring or, if a strategy for preventing or mitigating the predicted impacts on the spring is not included, the reason for not including the strategy;
 - (f) a timetable for implementing the strategy;
 - (g) a program for reporting to the commission about the implementation of the strategy.
- ‘(2) If the strategy is prepared for a final report, the strategy must also include a statement about any matters under a previous strategy that have not yet been complied with.
- ‘(3) In this section—
- cultural and spiritual values***, of a spring, means its aesthetic, historical, scientific, social or other significance to the present generation or past or future generations.

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potentially affected spring means a spring overlying an aquifer affected by underground water rights, if—

- (a) the water level in the aquifer is predicted, in an underground water impact report or final report, to decline by more than the spring trigger threshold at the location of the spring at any time; and
- (b) the cause of the predicted decline is, or is likely to be, the exercise of the underground water rights.

spring trigger threshold, for an aquifer, means a decline in the water level of the aquifer that is—

- (a) if a regulation prescribes the threshold for a particular area—the prescribed threshold for the area; or
- (b) otherwise—0.2m.

‘380 Identifying responsible tenure holders for cumulative management areas

- ‘(1) In identifying proposed responsible tenure holders under section 376(h), the commission may have regard to the impact considerations relating to each holder of a CMA tenure in the cumulative management area the subject of the report.
- ‘(2) The commission can not identify the holder of a closing CMA tenure as a proposed responsible tenure holder unless, after the notice of closure for the tenure is given, the tenure does not end.
- ‘(3) The commission may identify responsible tenure holders using maps showing the areas in which the holders’ underground water obligations arise.

‘Subdivision 2 Consultation by responsible entity

‘381 Requirement for consultation

‘Before giving the chief executive an underground water impact report or final report under this part, the responsible

entity must consult on the report as required under this subdivision.

'382 Public notice and copies of report

- '(1) The responsible entity must—
- (a) publish a notice about the proposed underground water impact report or final report—
 - (i) in a newspaper circulating generally throughout the area to which the report relates; and
 - (ii) if the entity has a website—on the entity's website; and
 - (b) give a copy of the notice to each owner of a water bore within the area to which the report relates.
- '(2) The responsible entity for a cumulative management area must also give a copy of the notice to each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.
- '(3) The notice must state each of the following—
- (a) a description of the area to which the report relates;
 - (b) that copies of the report may be obtained from the responsible entity;
 - (c) how the copies may be obtained;
 - (d) that—
 - (i) written submissions on the report may be given; and
 - (ii) the submissions must be given to the responsible entity; and
 - (ii) a copy of the submissions must be given to the chief executive;
 - (e) the day that is at least 20 business days after the notice is published by which the submissions may be made;
 - (f) where the submissions may be given.

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- ‘(4) The responsible entity must—
- (a) comply with subsections (1) and (2) at least 2 months before an underground water impact report is given to the chief executive under section 370; and
 - (b) give a copy of the report to each person who requests a copy.

‘383 Submissions summary

- ‘(1) The responsible entity must, before giving the chief executive an underground water impact report or final report under this part—
- (a) consider each properly made submission about the report; and
 - (b) prepare a summary of the submissions (a *submissions summary*).
- ‘(2) The submissions summary must summarise—
- (a) the properly made submissions about the report; and
 - (b) how the responsible entity addressed the submissions; and
 - (c) any changes the responsible entity has made to the report because of the submissions.

‘Division 5 **Approval of report by chief executive**

‘384 Modifying report before approval

- ‘(1) This section applies if, before approving an underground water impact report or final report, the chief executive considers the report is inadequate in a material particular.

Example of a report that is inadequate in a material particular—

In the circumstances, it was appropriate for the water monitoring strategy detailed in the report to include the construction of a water

monitoring bore. The construction of the bore is not provided for in the report.

- ‘(2) The chief executive may give the responsible entity for the report a notice stating—
- (a) why the chief executive considers the report is inadequate in a material particular; and
 - (b) how the report must be modified; and
 - (c) that the responsible entity must either—
 - (i) modify the report in the way stated in the notice and give the amended report to the chief executive within a stated reasonable period; or
 - (ii) make a submission within a stated reasonable period, which must be at least 20 business days after the notice is given, about why the report should not be modified.
- ‘(3) If the responsible entity makes a submission within the stated period and, after considering the submission, the chief executive still considers the report should be modified the chief executive may give the responsible entity a notice stating—
- (a) how the report must be modified; and
 - (b) a reasonable period within which the modified report must be given to the chief executive.
- ‘(4) If the responsible entity is given a notice under subsection (2) or (3), the entity must comply with it.
- Maximum penalty—500 penalty units.
- ‘(5) The chief executive may give the responsible entity more than 1 notice under this section.

‘385 Decision on report

- ‘(1) If a responsible entity gives the chief executive an underground water impact report or final report under this

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part, the chief executive must, within 60 business days after receiving the report, decide—

- (a) to approve the report, with or without conditions; or
 - (b) to require the responsible entity to modify the report under section 384.
- ‘(2) A condition imposed under subsection (1)(a) is taken to be part of the report.
- ‘(3) If the responsible entity is a petroleum tenure holder, the chief executive may seek advice from the commission before making a decision under subsection (1).
- ‘(4) The chief executive must, within 10 business days after approving the report, give notice of the decision to—
- (a) the responsible entity for the report; and
 - (b) if the report relates to a cumulative management area—each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.
- ‘(5) The notice must state—
- (a) any conditions of the approval; and
 - (b) the day the approved report takes effect.
- ‘(6) An underground water impact report or final report takes effect on the day stated in the notice.

‘386 Publishing approval and making report available

- ‘(1) The responsible entity for an underground water impact report or final report approved by the chief executive must, within 10 business days after receiving notice of the approval—
- (a) publish a notice about the approval—
 - (i) in a newspaper circulating generally throughout the area to which the report relates; and
 - (ii) if the entity has a website—on the entity’s website; and

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- (b) give a copy of the notice to each bore owner of a water bore within the area to which the report relates.
- ‘(2) The notice must state—
- (a) that copies of the approved report may be obtained from the entity; and
 - (b) how the copies may be obtained.
- ‘(3) The responsible entity must give a copy of the report to any person who requests a copy.
- ‘(4) The chief executive must publish each approved underground water impact report and approved final report on the department’s website.

‘Division 6 Provisions about approved reports

‘387 **Approved underground water impact report or final report establishes immediately affected and long-term affected areas**

‘On the day an underground water impact report or final report takes effect—

- (a) the area shown on a map mentioned in section 376(b)(iv) is an *immediately affected area*; and
- (b) the area shown on a map mentioned in section 376(b)(v) is a *long-term affected area*.

‘388 **Effect of approved underground water impact report**

- ‘(1) On the day an approved underground water impact report takes effect, the following cease to apply—
- (a) if the report relates to a cumulative management area other than an area that is within a closing CMA tenure—any existing underground water impact report relating to the cumulative management area or a petroleum tenure within the area;

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- (b) if the report relates to a closing CMA tenure or a petroleum tenure other than a CMA tenure—any existing underground water impact report relating to the petroleum tenure.
- ‘(2) Subsection (1) does not prevent proceedings being started or continued for an offence under section 390 for a failure to comply with an underground water impact report that has ceased applying under subsection (1), if the failure to comply happened when the report was in effect.

‘389 Effect of approved final report

- ‘(1) Subsections (2) and (3) apply if—
- (a) an approved final report takes effect for a CMA tenure, other than a closing CMA tenure; and
 - (b) an approved underground water impact report applies to the CMA tenure’s cumulative management area.
- ‘(2) If the final report conflicts with a matter provided for in the approved underground water impact report prepared for the cumulative management area—
- (a) the final report prevails to the extent of the conflict; and
 - (b) the underground water impact report is taken to have been amended to agree with the final report; and
 - (c) the holder of any remaining CMA tenures in the cumulative management area must continue to comply with the approved underground water impact report as amended by the final report under paragraph (b).
- ‘(3) If the CMA tenure the subject of the final report is the last CMA tenure in a cumulative management area to end, the underground water impact report for the cumulative management area stops applying when the final report takes effect.
- ‘(4) An underground water impact report for a closing CMA tenure or a petroleum tenure other than a CMA tenure stops applying when a final report for the tenure takes effect.

‘390 Compliance with approved reports

- ‘(1) Each of the following petroleum tenure holders must comply with an approved underground water impact report, unless the holder has a reasonable excuse—
- (a) for a report about a cumulative management area—each responsible tenure holder for a report obligation;
 - (b) for a report about a petroleum tenure—the holder of the petroleum tenure.

Maximum penalty—1665 penalty units.

- ‘(2) The holder of the petroleum tenure to which a final report relates must comply with the final report, unless the holder has a reasonable excuse.

Maximum penalty—1665 penalty units.

‘Division 7 Amending approved reports

‘391 Minor or agreed amendments of approved report

- ‘(1) The chief executive may amend an approved underground water impact report or final report if—
- (a) the amendment is only to—
 - (i) correct a minor error; or
 - (ii) update a petroleum tenure holder’s details; or
 - (iii) make another change that is not a change of substance; or
 - (b) for a report relating to a cumulative management area—the commission and any CMA tenure holder other than a closing CMA tenure holder affected by the amendment agree to the amendment; or
 - (c) for a report for a closing CMA tenure or other petroleum tenure—the holder of the tenure agrees to the amendment.

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- ‘(2) If the chief executive amends a report under subsection (1), the chief executive must publish the amended report on the department’s website.
- ‘(3) The chief executive must give notice of the amendment to—
 - (a) the responsible entity for the report; and
 - (b) if the report relates to a cumulative management area—each holder of a CMA tenure within the area, other than the holder of a closing CMA tenure.
- ‘(4) Any amendment takes effect on the day stated in the notice.
- ‘(5) The chief executive may include in the notice a requirement that the responsible entity—
 - (a) publish a notice of the amendment in the way the chief executive considers appropriate; and
 - (b) give a notice of the amendment to any bore owners the chief executive considers may be affected by the amendment.

‘392 Direction to propose amendment and consult on proposal

- ‘(1) This section applies if the chief executive reasonably believes—
 - (a) there has been a material change in the information or a prediction contained in an approved underground water impact report or final report; or
 - (b) the information or a prediction contained in an approved underground impact report or final report is incorrect in a material particular.
- ‘(2) The chief executive may give to the responsible entity for the report a notice directing the entity to—
 - (a) propose an amendment of the report to address the material change or correct the material particular; and
 - (b) consult on the proposed amendment in the way required under subsection (4); and

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- (c) give the proposed amendment to the chief executive for approval under subsection (5).
 - ‘(3) The responsible entity must comply with the notice.
Maximum penalty—500 penalty units.
 - ‘(4) In consulting on the proposed amendment, division 4, subdivision 2 applies to the proposed amendment as if a reference in that subdivision to an underground water impact report or final report were a reference to the proposed amendment.
 - ‘(5) In deciding whether to approve the proposed amendment, division 5 applies to the chief executive’s decision as if a reference in that division to an underground water impact report or final report were a reference to the proposed amendment.
 - ‘(6) The approved underground water impact report or final report, as amended, takes effect on the day the amendment takes effect under section 385(6).

‘393 Other amendments

- ‘(1) This section applies if—
 - (a) the chief executive reasonably considers an approved underground water impact report or final report requires amendment because a matter in the report is—
 - (i) no longer appropriate because there has been a material change in circumstances; or
 - (ii) inappropriate for another reason; and
 - (b) the amendment will not adversely affect a bore owner; and
 - (c) section 391 or 392 does not apply for the amendment.
- ‘(2) The chief executive may give the responsible entity for the approved report, and if the responsible entity is the commission, any responsible tenure holder who may be affected by the proposed amendment, a notice stating—

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- (a) why the chief executive considers the approved report requires amendment; and
 - (b) how the chief executive proposes to amend the approved report; and
 - (c) that the recipient of the notice may make a submission within a stated time, which must be at least 20 business days, about why the approved report should not be amended.
- ‘(3) After considering all properly made submissions about the proposed amendment, the chief executive must decide whether to make the amendment.
- ‘(4) The chief executive must give notice of the decision to any entity given notice of the proposed amendment under subsection (2).
- ‘(5) Any amendment takes effect from the day stated in the notice.
- ‘(6) The responsible entity for the amended report must, within 10 business days after receiving notice of the amendment, publish a notice about the amendment—
- (a) in a newspaper circulating generally throughout the area to which the report relates; and
 - (b) if the entity has a website—on the entity’s website.
- ‘(7) The notice must state—
- (a) that copies of the amended report may be obtained from the entity; and
 - (b) how the copies may be obtained.
- ‘(8) The responsible entity must give a copy of the amended report to any person who requests a copy.
- ‘(9) The chief executive must publish the amended report on the department’s website.

‘Part 3 Baseline assessments

‘Division 1 Preliminary

‘394 What is a *baseline assessment*

‘A *baseline assessment* is an assessment of a water bore undertaken by a petroleum tenure holder to obtain information about the bore, including the following—

- (a) the level and quality of water in the bore;
- (b) how the bore is constructed;
- (c) the type of infrastructure used to pump water from the bore.

Note—

Undertaking a baseline assessment includes analysing data obtained during the assessment to establish the matters in paragraphs (a) to (c).

‘395 Chief executive may make guidelines

- ‘(1) The chief executive may make guidelines about the minimum requirements for undertaking a baseline assessment.
- ‘(2) Before making the guidelines, the chief executive may consult with the entities the chief executive considers appropriate.
- ‘(3) The chief executive must publish the guidelines on the department’s website.

‘396 Method of undertaking baseline assessment

- ‘(1) In undertaking a baseline assessment of a water bore, a responsible tenure holder must comply with—
 - (a) guidelines made by the chief executive under section 395; or

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- (b) if there are no guidelines—best practice industry standards for carrying out work similar in nature to undertaking a baseline assessment.
- ‘(2) However, subsection (1) does not apply to a baseline assessment that was undertaken before the commencement of this section if the holder obtained information about the water bore that substantially meets the requirements of section 394 and any guidelines made by the chief executive under section 395.

‘Division 2 **Preparing and approving baseline assessment plans**

‘397 **Obligation to prepare baseline assessment plan**

- ‘(1) A petroleum tenure holder must give the chief executive a baseline assessment plan for the area of the holder’s tenure before—
- (a) the start day for the petroleum tenure; or
 - (b) if production testing or production of petroleum has already started in the area on the commencement of this section—30 business days after the commencement; or
 - (c) if a longer period is agreed by the chief executive—the longer period.

Maximum penalty—500 penalty units.

- ‘(2) A baseline assessment plan for the area of a petroleum tenure must—
- (a) state whether a baseline assessment has been undertaken for any bores in the area before the day the plan is given to the chief executive, and if so, identify the bores; and
 - (b) identify each area of the holder’s petroleum tenure in which water bores other than the bores mentioned in paragraph (a) are or may be located (each a *priority area*); and

- (c) state a timetable for undertaking baseline assessments in each priority area of water bores for which an assessment has not already been completed, including the day by which all baseline assessments in each priority area will be undertaken, that complies with section 398 (a *baseline assessment timetable*); and
- (d) state the rationale for the baseline assessment timetable.

'398 Requirements for baseline assessment timetable

- '(1) A baseline assessment timetable for a holder's petroleum tenure must provide for baseline assessments to be undertaken for a water bore located in a priority area for the tenure by the earliest of the following—
 - (a) before production testing starts, if—
 - (i) the bore in the priority area is located within 2km of the production testing; and
 - (ii) during the production testing, water will be taken from the aquifer supplying the water bore;
 - (b) before production of petroleum starts in the priority area;
 - (c) the day after a period of 30 days, whether continuous or not, of undertaking production testing in the priority area.
- '(2) However, subsection (1)(a) does not apply if the tenure holder obtains the written agreement of the owner of the water bore to a baseline assessment being undertaken on a later day.
- '(3) Subsection (4) applies if, on the commencement of this section—
 - (a) production testing in the priority area has been undertaken for a period of more than 30 days, whether continuous or not; or
 - (b) production of petroleum in the priority area has started.

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- ‘(4) The baseline assessment timetable must propose a day by which a baseline assessment will be undertaken for each water bore in a priority area.
- ‘(5) A baseline assessment timetable must state the rationale for each proposed date by which baseline assessments will be undertaken.

‘399 Approval of baseline assessment plan

- ‘(1) If a baseline assessment plan is given to the chief executive under section 397, the chief executive must—
 - (a) approve the plan, with or without conditions; or
 - (b) ask the holder to amend the plan and submit the amended plan within a stated reasonable period.
- ‘(2) The chief executive must give notice of the decision to the petroleum tenure holder within 10 business days after making the decision.
- ‘(3) If the chief executive approves the plan, the plan takes effect on the day stated in the notice.

‘400 Compliance with approved baseline assessment plan

‘A petroleum tenure holder must undertake a baseline assessment of a water bore by the day stated for carrying out the assessment of the bore in the holder’s approved baseline assessment plan, unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

‘Division 3 Amending approved baseline assessment plans

‘401 Application to amend

- ‘(1) A petroleum tenure holder may apply in writing to the chief executive for an amendment of the holder’s approved baseline assessment plan.
- ‘(2) A petroleum tenure holder must apply to the chief executive for an amendment of the plan if the holder becomes aware of a material change to the holder’s program for production testing or production of petroleum that may cause the holder’s baseline assessment timetable not to comply with section 398.
- ‘(3) The application must state the reasons for the application.
- ‘(4) The chief executive may—
 - (a) approve the amendment, with or without conditions; or
 - (b) ask the holder to amend the application and submit the amended application within a reasonable period.
- ‘(5) The chief executive must give notice of the decision to the petroleum tenure holder within 10 business days after making the decision.
- ‘(6) If the chief executive approves the application, the amendment takes effect on the day stated in the notice.

‘Division 4 Miscellaneous

‘402 Direction by chief executive to undertake baseline assessment

- ‘(1) This section applies to a water bore if the chief executive reasonably considers the bore is likely, in the future, to be affected by the exercise of a petroleum tenure holder’s underground water rights.

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- ‘(2) The chief executive may, by notice given to the holder, direct the holder to undertake a baseline assessment of the water bore that complies with this section and section 396.
- ‘(3) The notice must state the following—
 - (a) where the bore is situated;
 - (b) why the chief executive considers the bore is likely to be affected by the exercise of the holder’s rights;
 - (c) a reasonable period within which the assessment must be undertaken;
 - (d) that a copy of the notice given under section 405 must be given to the chief executive at the same time the notice is given under that section.
- ‘(4) In deciding the holder to whom a direction is to be given under subsection (2), the chief executive must have regard to the impact considerations relating to the holder.
- ‘(5) The holder must comply with a direction given under subsection (2), unless the holder has a reasonable excuse.
Maximum penalty for subsection (5)—500 penalty units.

‘403 Notice of intention to undertake baseline assessment

‘A petroleum tenure holder must, at least 10 business days before undertaking a baseline assessment of a water bore, give the bore owner of the bore a notice stating—

- (a) when the baseline assessment will be undertaken; and
- (b) who will undertake the baseline assessment.

‘404 Bore owner must give information

- ‘(1) To comply with its obligations under this part, a petroleum tenure holder may ask an owner of land for information about the following—
 - (a) the location of any water bores on the owner’s land;

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- (b) the measures the holder will take to ensure the bore owner has access to a reasonable quantity and quality of water for the authorised use and purpose of the bore;
- (c) any monetary or non-monetary compensation payable to the bore owner for impacts on the bore.

‘407 Effect of an agreement under this part

‘If an agreement relating to a water bore is entered into under section 406—

- (a) the agreement is taken to be a make good agreement for the bore for the purposes of part 5; and
- (b) the petroleum tenure holder is taken to have complied with the holder’s obligation to undertake a bore assessment for the bore under section 417.

‘Part 5 Make good obligations for water bores

‘Division 1 Preliminary

‘408 Definition for pt 5

‘In this part—

immediately affected area bore means a water bore located in an immediately affected area of an aquifer.

‘409 Make good obligations for water bores

- ‘(1) The *make good obligations* of a petroleum tenure holder for an immediately affected area bore are—

-
- (a) undertaking a bore assessment of the bore as required under division 2; and
 - (b) entering into a make good agreement with the bore owner of the bore as required under division 3; and
 - (c) complying with the make good agreement; and
 - (d) if asked to vary the make good agreement under section 424—negotiating a variation of the make good agreement.
- ‘(2) The *make good obligations* of a petroleum tenure holder for a water bore other than an immediately affected area bore are—
- (a) if the holder is required under section 418 to undertake a bore assessment of the bore—undertaking the bore assessment; and
 - (b) entering into a make good agreement with the bore owner of the bore as required under division 3; and
 - (c) complying with the make good agreement; and
 - (d) if asked to vary the make good agreement under section 424—negotiating a variation of the make good agreement.

‘410 Who must comply with make good obligations

‘The responsible tenure holder for a water bore must comply with the make good obligations for the bore.

‘Division 2 Bore assessments

‘Subdivision 1 Preliminary

‘411 What is a *bore assessment*

‘A *bore assessment* is an assessment of a water bore undertaken by a petroleum tenure holder to establish—

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- (a) whether the bore has an impaired capacity; or
- (b) whether the bore is likely to start having an impaired capacity.

Note—

Undertaking a bore assessment includes analysing data obtained during the assessment to establish the matters in paragraphs (a) and (b).

‘412 When does a water bore have an *impaired capacity*

- ‘(1) An existing water bore has an *impaired capacity* if—
 - (a) there is a decline in the water level of the aquifer at the location of the bore because of the exercise of underground water rights; and
 - (b) because of the decline, the bore can no longer provide a reasonable quantity or quality of water for its authorised use or purpose.
- ‘(2) A new water bore has an *impaired capacity* if—
 - (a) there is a decline in the water level of the aquifer at the location of the bore because of the exercise of underground water rights; and
 - (b) the decline is more than the decline predicted at the location of the bore in the relevant report; and
 - (c) because of the decline, the bore can no longer provide a reasonable quantity or quality of water for its authorised use or purpose.
- ‘(3) A regulation may prescribe for this section a quality of water that is a reasonable quality of water for a particular authorised use or purpose.
- ‘(4) In this section—

existing water bore means any water bore in existence before the first underground water impact report relating to the area where the bore is located takes effect.

new water bore means a water bore other than an existing water bore.

relevant report, for a new water bore, means the approved underground water impact report—

- (a) in effect when the bore is constructed; and
- (b) relating to the area where the bore is located.

‘413 Chief executive may make guidelines

- ‘(1) The chief executive may make guidelines about the minimum requirements for undertaking a bore assessment.
- ‘(2) Before making the guidelines, the chief executive may consult with the entities the chief executive considers appropriate.
- ‘(3) The chief executive must publish the guidelines on the department’s website.

‘414 Method of undertaking bore assessment

- ‘(1) In undertaking a bore assessment of a water bore, a responsible tenure holder must comply with—
 - (a) guidelines made by the chief executive under section 413; or
 - (b) if there are no guidelines—best practice industry standards for carrying out work similar in nature to undertaking a bore assessment.
- ‘(2) However, subsection (1) does not apply to a bore assessment undertaken before the commencement of this section if the holder obtained information about the water bore that is sufficient to establish a matter mentioned in section 411.

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‘Subdivision 2 Obligations relating to bore assessments

‘415 Notice of intention to undertake bore assessment

‘A responsible tenure holder must, at least 10 business days before undertaking a bore assessment of a water bore, give the bore owner of the bore a notice stating—

- (a) when the bore assessment will be undertaken; and
- (b) who will undertake the bore assessment.

‘416 Bore owner must give information

‘(1) To comply with its obligations under this division, a petroleum tenure holder may ask an owner of land for information about the following—

- (a) the location of any water bores on the owner’s land;
- (b) any other information the holder reasonably requires to undertake a bore assessment of any bores mentioned in paragraph (a).

‘(2) If there are water bores located on the owner’s land, the owner of the land must comply with any reasonable request by a holder made under subsection (1), if the person has the information.

‘Subdivision 3 Obligations to undertake bore assessments

‘417 Obligation to undertake bore assessment of immediately affected area bore in particular circumstances

‘(1) This section applies if—

- (a) an underground water impact report or an amendment of a report takes effect; and

-
- (b) the report identifies, or the amendment changes the area or location of, an immediately affected area of an aquifer.
- ‘(2) For each immediately affected area bore that is not already the subject of a make good agreement, the responsible tenure holder for the bore must, unless the holder has a reasonable excuse, undertake a bore assessment of the bore that complies with this division before—
- (a) the day that is 60 business days after the report or amendment takes effect; or
 - (b) if the chief executive agrees to a later day—that day.
- Maximum penalty—500 penalty units.
- ‘(3) However, subsection (2) does not apply if a bore assessment of the bore has already been undertaken.

‘418 Direction by chief executive to undertake bore assessment

- ‘(1) This section applies if the chief executive reasonably believes a water bore can no longer supply a reasonable quantity or quality of water for its authorised use or purpose.
- ‘(2) The chief executive may give a petroleum tenure holder a notice stating that the holder must either—
- (a) undertake a bore assessment that complies with this section and section 414 within a stated reasonable time; or
 - (b) make a submission within a stated reasonable period of at least 20 business days about why the holder should not be required to undertake the bore assessment.
- ‘(3) If the holder undertakes a bore assessment under subsection (2)(a), the holder must give the chief executive a copy of the notice given under section 419.
- ‘(4) In deciding the petroleum tenure holder to whom a notice is to be given under subsection (2), the chief executive must have regard to the impact considerations relating to the holder.

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- ‘(5) If the holder makes a submission within the stated period and, after considering the submission, the chief executive still considers the holder should undertake the bore assessment, the chief executive may give the holder a notice stating—
- (a) that the holder must undertake the bore assessment; and
 - (b) a reasonable period within which the bore assessment must be undertaken; and
 - (c) that a copy of the notice given under section 419 must be given to the chief executive.
- ‘(6) The holder must comply with a notice given under subsection (2) or (5), unless the holder has a reasonable excuse.
- Maximum penalty—500 penalty units.
- ‘(7) A regulation may prescribe for this section a quality of water that is a reasonable quality of water for a particular authorised use or purpose.
- ‘(8) In this section—
- bore assessment* includes an assessment of a water bore to establish—
- (a) whether it can supply a reasonable quantity or quality of water for its authorised use or purpose; and
 - (b) the reason for any reduced capacity of the water bore to supply the reasonable quantity or quality of water.

‘419 Notice of outcome of bore assessment

‘A petroleum tenure holder must give notice in the approved form of the outcome of a bore assessment to the commission and the bore owner for the bore within—

- (a) if the bore assessment was undertaken before the commencement of this section—30 business days after the commencement; or
- (b) otherwise—30 business days after undertaking the bore assessment.

Maximum penalty—500 penalty units.

‘Division 3 Make good agreements

‘Subdivision 1 Preliminary

‘420 What is a *make good agreement* for a water bore

‘A *make good agreement* for a water bore is an agreement—

- (a) entered into by the following parties—
 - (i) the responsible tenure holder for the make good obligations for the bore;
 - (ii) the bore owner; and
- (b) that provides for each of the following matters—
 - (i) the outcome of the bore assessment for the bore;
 - (ii) whether the bore has or is likely to have an impaired capacity;
 - (iii) if the bore has or is likely to have an impaired capacity—the make good measures for the bore to be taken by the responsible tenure holder.

‘421 What is a *make good measure* for a water bore

A *make good measure* for a water bore is any of the following measures—

- (a) ensuring the bore owner has access to a reasonable quantity and quality of water for the bore’s authorised use or purpose;

Examples—

- bore enhancement by deepening the bore or improving its pumping capacity
- constructing a new bore
- providing a supply of an equivalent amount of water of a suitable quality by piping it from an alternative source

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- (b) carrying out a plan to monitor the bore, including, for example, by undertaking periodic bore assessments;
- (c) giving the bore owner monetary or non-monetary compensation for the bore's impaired capacity.

'422 Persons bound by make good agreement

'A make good agreement for a water bore binds the parties to it and each of their successors and assigns, including successors and assigns of the relevant petroleum tenure.

Note—

See also section 364 (References to petroleum tenure holder in ch 3).

'Subdivision 2 Requirements to enter into make good agreements

'423 Requirement to enter into make good agreement and reimburse bore owner

- '(1) This section applies in relation to a water bore for which a responsible tenure holder has undertaken a bore assessment under division 2.
- '(2) The holder must use the holder's best endeavours to enter into a make good agreement for the bore with the bore owner by—
 - (a) the day that is 40 business days after the bore assessment is undertaken; or
 - (b) if the chief executive agrees to a later day—that day.
- '(3) The holder must reimburse the bore owner for any accounting, legal or valuation costs the claimant necessarily and reasonably incurs in negotiating or preparing a make good agreement, other than the costs of a person facilitating an ADR requested by the bore owner.

‘Subdivision 3 Obligation to negotiate variation of make good agreements

‘424 Negotiating variation of make good agreement

- ‘(1) This section applies if, after entering into a make good agreement for a water bore, either party to the agreement considers a matter stated in the agreement is not appropriate because—
- (a) of a material change in circumstances; or
 - (b) 1 or more of the make good measures agreed to is not effective; or
 - (c) another effective and more efficient make good measure is available.

Examples—

- 1 The impacts on a water bore because of the exercise of underground water rights are substantially greater than predicted in an underground water impact report.
 - 2 A change in the authorised activities conducted in the area of a tenure is causing a substantial change in the impact of the exercise of underground water rights on aquifer water levels.
- ‘(2) A party to the agreement may give a notice to the other party—
- (a) stating why the party considers a matter stated in the agreement is not appropriate; and
 - (b) asking the other party to vary the agreement.
- ‘(3) A party to whom a notice is given under subsection (2) must use the party’s best endeavours to negotiate a variation of the make good agreement for the water bore that addresses the matters stated in the notice.
- ‘(4) Subsection (3) does not prevent the parties to the make good agreement from otherwise agreeing to vary the agreement.

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‘Division 4 Disputes about make good obligations

‘Subdivision 1 Preliminary

‘425 Application of div 4

‘This division applies if—

- (a) a petroleum tenure holder and the owner of a water bore can not agree on the terms of a make good agreement for the bore within the period provided for under section 423, including whether or not the bore has an impaired capacity; or
- (b) the parties to a make good agreement for a water bore can not agree about—
 - (i) whether a matter stated in the agreement is inappropriate for a reason stated in section 424(1); or
 - (ii) if the parties agree a matter stated in the agreement is inappropriate—the terms of any variation of the agreement; or
- (c) a party to a make good agreement for a water bore reasonably believes the other party has not complied with the agreement.

‘426 Parties may seek conference or independent ADR

- ‘(1) This section applies if a dispute about a matter mentioned in section 425 arises.
- ‘(2) Either party may, by a notice (an *election notice*)—
 - (a) given to the other party and the chief executive—ask the chief executive to direct an authorised officer to call a conference to negotiate a resolution of the dispute; or

-
- (b) given to the other party—call for the other party to agree to an alternative dispute resolution process (an *ADR*) to negotiate a resolution of the dispute.
 - ‘(3) The notice must state—
 - (a) details of the matters the subject of the dispute; and
 - (b) the contact details of the party giving the notice.
 - ‘(4) Also, if the notice calls for an ADR, it must—
 - (a) identify the ADR; and
 - (b) state that the party giving the notice agrees to bear the costs of the person who will facilitate the ADR.
 - ‘(5) An ADR may be a process of any kind, including, for example, conciliation or mediation.
 - ‘(6) However, the person who facilitates the ADR must be independent of both parties.

‘427 Duration of conference or ADR

- ‘(1) This section applies if an election notice is given.
- ‘(2) If a conference is requested, the authorised officer directed under section 428 to conduct the conference must take all reasonable steps to ensure it is finished within 30 business days after the election notice is given (the *usual period*).
- ‘(3) If an ADR is called for, the parties must use their reasonable endeavours to finish it within 30 business days after the election notice is given (also the *usual period*).
- ‘(4) Either party may, within the usual period, ask the other party to agree to a longer period to finish the conference or ADR.
- ‘(5) If the parties agree to the longer period, that period applies instead of the usual period.
- ‘(6) If an ADR is called for, sections 430 and 433 apply to the ADR as if a reference in the sections to a conference were a reference to an ADR.

‘Subdivision 2 Calling conference and attendance

‘428 Calling conference

- ‘(1) If an election notice is given requesting a conference, the chief executive must direct an authorised officer to conduct the conference.
- ‘(2) The authorised officer must, by notice, ask the parties to attend a conference to negotiate a resolution of the dispute.
- ‘(3) The notice must state what the subject of the conference is and when and where it will be held.

‘429 Who may attend conference

- ‘(1) The authorised officer directed to conduct the conference under section 428 and the parties to the dispute may attend it.
- ‘(2) A party may be represented by an agent only if the authorised officer agrees.
- ‘(3) Also, with the authorised officer’s approval, someone else may be present to help a party attending the conference.
- ‘(4) However, a party can not be represented by a lawyer unless the other party agrees and the authorised officer is satisfied there is no disadvantage to a party.

‘430 What happens if a party does not attend

- ‘(1) This section applies if a party given notice of the conference does not attend.
- ‘(2) A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party’s reasonable costs of attending.
- ‘(3) The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.

- ‘(4) If the Land Court makes an order under subsection (2), it must decide the amount of the costs.

‘Subdivision 3 Conduct of conference

‘431 Authorised officer’s role

- ‘(1) In conducting a conference, the authorised officer must endeavour to help those attending to negotiate an early and inexpensive settlement of the dispute.
- ‘(2) The authorised officer must decide how the conference is conducted.

‘432 Statements made at conference

‘Nothing said by a person at the conference is admissible, without the person’s consent, in a proceeding.

‘433 Negotiated agreement

- ‘(1) If, at the conference, the parties negotiate an agreement about the matters the subject of the conference, the agreement must be written and signed by or for the parties.
- ‘(2) The agreement may be a make good agreement or a variation of an existing make good agreement between the parties.

‘Subdivision 4 Land Court decision on dispute

‘434 Deciding dispute through Land Court after unsuccessful conference or ADR

- ‘(1) This section applies if an election notice is given and—
- (a) if a party asked the chief executive to direct an authorised officer to conduct a conference—the authorised officer does not finish the conference within

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the period required under section 427 (the *required period*); or

- (b) if a party called for an ADR—the parties do not finish the ADR within the period required under section 427 (also the *required period*).

‘(2) This section also applies if—

- (a) only 1 of the parties attended the conference or ADR; or
- (b) both parties attended the conference or ADR and, at the end of the required period, there is no resolution of the dispute.

‘(3) An eligible party may apply to the Land Court to decide the matter the subject of the election notice.

‘(4) In this section—

eligible party means—

- (a) if subsection (1) applies—any party to the dispute; or
- (b) if subsection (2) applies—a party who attended the conference or ADR.

‘435 Provisions for making decision

‘(1) Without limiting the Land Court’s jurisdiction, it may decide—

- (a) if the dispute is about the terms of a make good agreement for a water bore—the terms of the agreement; or
- (b) if the dispute is about varying the terms of a make good agreement for a water bore under section 424—
 - (i) whether a matter stated in the agreement is inappropriate for a reason stated in section 424; or
 - (ii) the terms of any variation of the agreement; or
- (c) if the dispute is about whether a party to a make good agreement for a water bore has complied with the

agreement—whether anything must be done by a party to comply with the agreement.

- ‘(2) However, the Land Court may decide to vary a make good agreement for a water bore only to the extent the court considers the variation is appropriate to—
 - (a) address a material change in circumstances; or
 - (b) address a make good measure for the bore that is not effective; or
 - (c) provide for another effective and more efficient make good measure for the bore.
- ‘(3) Subject to subsection (2), the Land Court may make any order it considers appropriate about the make good agreement for the water bore or to meet or enforce its decision.
- ‘(4) If the Land Court decides terms of a make good agreement for a water bore, the decision is taken to be a make good agreement for the bore.
- ‘(5) If the Land Court decides to vary a make good agreement for a water bore, the agreement as varied by the decision is, for this Act, taken to be the make good agreement for the bore.

‘436 Provisions for deciding any compensation

- ‘(1) This section applies if the Land Court decides to include in a make good agreement, or a variation of a make good agreement, for a water bore a term requiring the petroleum tenure holder to compensate the bore owner.
- ‘(2) The compensation may only be for—
 - (a) diminution of any of the following because of the impacts on the bore of the exercise of underground water rights by petroleum tenure holders—
 - (i) the value of the bore owner’s land on which the water bore is located;
 - (ii) the authorised use or purpose the bore owner has or would have made, of water from the water bore; or

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- (b) any cost to the bore owner, or loss the bore owner suffers, caused by the impaired capacity of the water bore.

Example for subsection (b)—

the cost of transporting water to the bore owner's land from an alternative water source

- (3) In deciding the amount of the compensation, the Land Court may consider any make good measures for the water bore, whether successful or otherwise, taken or attempted by the petroleum tenure holder.

'437 Land Court's decision binds successors and assigns

'A decision by the Land Court under section 435 binds the parties to the dispute and each of their successors and assigns, including successors and assigns of the relevant petroleum tenure.

Note—

Under section 422, the parties to a make good agreement for a water bore and each of their successors and assigns is bound by the make good agreement.

'Part 6 End of tenure provisions

'438 Application of make good obligations to particular bores

- (1) This section applies if—
- (a) a final report for a petroleum tenure is approved under section 385; and
 - (b) the report identifies a long-term affected area and 1 or more water bores in the long-term affected area.
- (2) Part 5 applies for each water bore mentioned in subsection (1)(b) as if—

- (a) the long-term affected area was an immediately affected area; and
- (b) the bore was an immediately affected area bore; and
- (c) the final report was an underground water impact report.

Note—

If a petroleum tenure ends, a reference in this chapter to a petroleum tenure holder includes a reference to the holder of the petroleum tenure immediately before it ended. See section 364.

‘439 Continuation of underground water obligations

‘A petroleum tenure holder’s obligation to give a final report under section 374, and the holder’s underground water obligations, continue to apply despite the ending of the tenure.

Note—

For access to the relevant land after the tenure ends to allow a petroleum tenure holder to comply with the holder’s underground water obligations, see section 441.

‘440 Petroleum tenure holder may start complying with make good obligations before final report approved

‘If a petroleum tenure ends, nothing in this chapter is taken to prevent the holder of the tenure undertaking a bore assessment of a water bore, or entering into a make good agreement for a water bore, before a final report for the tenure is approved.

‘441 Right of entry after petroleum tenure ends to comply with particular obligations

- ‘(1) This section applies if a petroleum tenure ends and the former holder of the petroleum tenure (the *former tenure holder*)—
 - (a) is the responsible tenure holder for an underground water obligation; or
 - (b) has not complied with an obligation to give a final report under part 2; or

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- (c) has been given a direction by the chief executive under part 8.
- ‘(2) The former tenure holder may enter land under the relevant entry provisions to comply with an obligation or direction mentioned in subsection (1).
- ‘(3) The relevant entry provisions apply to the former tenure holder as if—
 - (a) the tenure were still in force; and
 - (b) the former tenure holder were the holder of the tenure; and
 - (c) any water monitoring authorities held by the former tenure holder were still in force; and
 - (d) carrying out an activity to comply with an underground water obligation or a direction given by the chief executive under part 8 were an authorised activity for the tenure.
- ‘(4) In this section—
relevant entry provisions means—
 - (a) for a 1923 Act petroleum tenure under the *Petroleum Act 1923*—parts 6H, 6I, 6J and 6K of that Act; and
 - (b) for a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*—chapter 5, parts 2, 3, 4 and 5 of that Act.

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‘445 Public access to database

- ‘(1) The commission may make information in the database available to the public.
- ‘(2) However, the publicly available part of the database must not include—
 - (a) information obtained as a result of undertaking—
 - (i) a baseline assessment; or
 - (ii) a bore assessment; or
 - (b) any other information the commission reasonably believes is commercially sensitive.
- ‘(3) A person may—
 - (a) free of charge, inspect the details contained in the publicly available part of the database at the commission’s head office during normal business hours; and
 - (b) on payment of a fee decided by the chief executive, obtain a copy of the details from the commission.
- ‘(4) The fee decided by the chief executive must not be more than the reasonable cost of producing the copy.

‘446 Petroleum tenure holder access to information

- ‘(1) The commission must make any information in the database available to a petroleum tenure holder if the commission is reasonably satisfied the information would assist the holder in complying with the holder’s obligations under this chapter.
- ‘(2) However, the commission must not give information to a petroleum tenure holder under subsection (1) if the commission reasonably believes the information is commercially sensitive.

‘Division 2 Power for complying with obligations

‘447 Obtaining information about underground water from petroleum tenure holders

- ‘(1) The commission may give a petroleum tenure holder a notice requesting the following information about the exercise of underground water rights under the holder’s petroleum tenure—
- (a) information the commission requires for complying with its obligations as a responsible entity under part 2;
 - (b) other information the commission requires to analyse and monitor impacts on underground water generally.
- ‘(2) The notice must state how, and a reasonable period of at least 20 business days by which, the information must be given.
- ‘(3) The petroleum tenure holder must comply with the notice, unless the holder has a reasonable excuse.
- Maximum penalty—1665 penalty units.
- ‘(4) If the petroleum tenure holder is an individual, it is a reasonable excuse not to comply with the notice if complying with the notice might tend to incriminate the holder.

‘Part 8 Directions by chief executive

‘Division 1 Direction to undertake water monitoring activities

‘448 Application of div 1

- ‘(1) This division applies to a petroleum tenure holder if there is no approved underground water impact report applying to the area of the holder’s petroleum tenure.
- ‘(2) Also, this division applies to a petroleum tenure holder if—

[s 195]

- (a) an approved underground water impact report or final report applies to the holder; and
- (b) the chief executive has given the responsible entity for the report—
 - (i) a notice directing the entity to propose an amendment of the report under section 392; or
 - (ii) a notice of a proposed amendment under section 393; and
- (c) the chief executive either—
 - (i) has not yet decided whether to approve or to make the amendment; or
 - (ii) has decided to approve the amendment or to amend the report, but the amendment has not yet taken effect.

‘449 Chief executive may direct petroleum tenure holder to carry out water monitoring activities

- ‘(1) The chief executive may give notice to the petroleum tenure holder to carry out a water monitoring activity for a stated area.
- ‘(2) In deciding to give the notice, the chief executive must have regard to the impact considerations relating to the holder.
- ‘(3) The notice must state the following—
 - (a) a reasonable timetable for carrying out the water monitoring activity;
 - (b) a program for reporting to the commission and the chief executive about the implementation of the activity;
 - (c) the parameters to be measured in carrying out the activity;
 - (d) the locations for taking the measurements;
 - (e) the frequency of the measurements.

‘(4) The holder must comply with the notice, unless the holder has a reasonable excuse.

Maximum penalty—500 penalty units.

‘(5) In this section—

water monitoring activity, for a petroleum tenure, means gathering information about, or monitoring, the effects of the exercise of underground water rights by the holder of the tenure.

‘Division 2 Emergency directions

‘450 Application of div 2

‘This division applies if—

- (a) the chief executive reasonably believes urgent action is necessary—
 - (i) to restore water supply to a water bore with an impaired capacity; or
 - (ii) to prevent or minimise the likelihood of a water bore having an impaired capacity; and
- (b) the chief executive is satisfied or reasonably believes failure to take the action may result in 1 or more of the following—
 - (i) significant economic loss or damage to any person;
 - (ii) a significant risk to the health of stock;
 - (iii) a loss of supply of water for domestic purposes or essential services, including, for example, the generation of electricity or the distribution of town water.

‘451 Power to give direction

‘(1) The chief executive may, for the purpose of taking the action for a matter mentioned in section 450 and by notice given to a

[s 195]

petroleum tenure holder, direct the holder to take stated reasonable steps within a stated reasonable period.

- ‘(2) The notice must state that it is an offence for the holder not to comply with the direction unless the holder has a reasonable excuse.
- ‘(3) In deciding to give a direction to a petroleum tenure holder under subsection (1), the chief executive must consider the impact considerations relating to the holder.

‘452 Offence to fail to comply with direction

‘A petroleum tenure holder given a direction under section 451 must comply with the direction unless the holder has a reasonable excuse.

Maximum penalty—1665 penalty units.

‘453 Chief executive may take action and recover costs

- ‘(1) This section applies if a petroleum tenure holder fails to comply with a direction given under section 451.
- ‘(2) The chief executive may take the action.
- ‘(3) If the chief executive takes the action, the chief executive may give the holder a notice (a *cost recovery notice*) requiring the holder to pay the stated costs and expenses reasonably incurred by the chief executive in taking the reasonable steps.
- ‘(4) However, subsection (3) does not apply if the chief executive is satisfied the holder had a reasonable excuse for not complying with the direction.
- ‘(5) The cost recovery notice must state the following—
 - (a) the name of the holder;
 - (b) the location of the water bore to which the action related;
 - (c) a description of the action taken;
 - (d) the amount of the costs and expenses incurred;

- (e) a description of the costs and expenses incurred;
 - (f) that if the holder does not pay the amount to the chief executive within 30 days after the day the notice is given, the chief executive may recover the amount and any interest payable on the amount from the holder as a debt;
 - (g) the contact details of the chief executive.
- ‘(6) If the holder does not pay the amount stated in the cost recovery notice to the chief executive within 30 days after the day the notice is given, the chief executive may recover the amount, and any interest payable on the amount, from the holder as a debt.
- ‘(7) A debt due under subsection (6) bears interest at the rate stated in a regulation.

‘Division 3 Other directions

‘454 Directions to petroleum tenure holders and bore owners to give information

- ‘(1) The chief executive may give a petroleum tenure holder a notice requiring information about—
- (a) compliance by the holder with its make good obligations for a water bore; or
 - (b) the quantity and quality of water produced or taken because of the exercise of the holder’s underground water rights; or
 - (c) a matter stated in an underground water impact report or final report given by the holder to the chief executive under part 2.
- ‘(2) Also, the chief executive may give a bore owner a notice requiring information about—

[s 196]

- (a) a matter for which the owner is required to keep information under this Act in relation to the water bore; or
 - (b) the condition and capacity of the water bore.
- ‘(3) A notice given under this section—
- (a) may be given at any time; and
 - (b) must state the reasonable period within which the information must be given to the chief executive.
- ‘(4) The person to whom the notice is given must comply with the notice, unless the person has a reasonable excuse.
- Maximum penalty—200 penalty units.
- ‘(5) If the person is an individual it is a reasonable excuse not to comply with the notice if giving the information might tend to incriminate the individual.’.

196 Amendment of s 740 (Functions and powers of authorised officers)

Section 740(1)—

insert—

- ‘(c) any other function conferred under this Act.’.

197 Amendment of s 746 (Power to enter land to monitor compliance)

- (1) Section 746(1) and (2), ‘authorised under this Act’—

omit, insert—

‘authorised, or taken to be authorised, under this Act’.

- (2) Section 746(1)—

insert—

- ‘(e) find out if a petroleum tenure holder is complying with an obligation applying to the holder under chapter 3;

-
- (f) test or assess equipment or water monitoring bores used for complying with an obligation applying to a petroleum tenure holder under chapter 3.’.

198 Amendment of s 747 (Power to enter land in relation to information collection)

- (1) Section 747(3)—

omit, insert—

‘(3) An authorised officer may, at any reasonable time, enter land to collect information required to assess the condition of, or the impact of the exercise of underground water rights on, an aquifer, spring or water bore.

‘(4) For exercising a power mentioned in this section, an authorised officer may enter and cross any land to access land mentioned this section.’.

- (2) Section 747(2A) to (4)—

renumber as section 747(3) to (5).

199 Amendment of s 748A (Power of entry for monitoring commission water restrictions and water efficiency management plans)

Section 748A, ‘person’—

omit, insert—

‘officer’.

200 Amendment of s 814 (Destroying vegetation, excavating or placing fill without permit)

Section 814(2AA) and (2AB)—

omit.

[s 201]

201 Amendment of s 966 (Additional criteria for assessing development applications)

Section 966(1)(c), after ‘management area’—

insert—

‘or wild river special floodplain management area’.

202 Amendment of s 966B (Applications in relation to interfering with overland flow water in wild river floodplain management area)

(1) Section 966B, heading, after ‘area’—

insert—

‘**or wild river special floodplain management area**’.

(2) Section 966B(1)(c), after ‘management area’—

insert—

‘or wild river special floodplain management area’.

203 Insertion of new s 1013E

Chapter 8, part 5—

insert—

‘1013E Advice to Petroleum Act Minister about commission of particular offences

‘(1) This section applies if a person is convicted of an offence against chapter 3.

‘(2) The chief executive may, by notice given to the Petroleum Act Minister, advise the Petroleum Act Minister of the commission of the offence by the person.

‘(3) In this section—

Petroleum Act Minister means the Minister administering the *Petroleum Act 1923* and the *Petroleum and Gas (Production and Safety) Act 2004*.’.

204 Amendment of s 1162 (Grid customers)

Section 1162(c)—

omit.

205 Insertion of new ch 9, pt 5, div 16

Chapter 9, part 5—

insert—

**‘Division 16 Transitional provisions for Water
and Other Legislation Amendment
Act 2010**

‘1179 Definition for div 16

‘In this division—

commencement means the day this section commences.

**‘1180 Application of obligation to give reports for particular
petroleum tenure holders**

‘(1) Subsection (2) applies to a petroleum tenure holder if—

- (a) the term of the holder’s petroleum tenure ends less than 1 year after the commencement; or
- (b) the holder gives a notice of closure within 14 months after the commencement.

‘(2) If subsection (1)(a) applies, the holder must give the chief executive a notice of closure under section 372 within 20 business days after the commencement.

‘(3) A holder mentioned in subsection (1) is not required to give an underground water impact report under section 370.

[s 206]

‘1181 Existing agreements between petroleum tenure holders and bore owners

- ‘(1) This section applies if, on the commencement, an agreement is in force between a petroleum tenure holder and a bore owner about a water bore affected by the exercise of the holder’s underground water rights.
- ‘(2) From the commencement—
- (a) the holder is taken to have complied with the holder’s obligation to undertake a bore assessment for the bore under chapter 3, part 5, division 2; and
 - (b) the agreement is taken to be a make good agreement entered into between the holder and bore owner for the water bore for the purposes of chapter 3, part 5.’.

206 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definition *petroleum tenure holder*—
omit.

- (2) Schedule 4—
insert—

ADR see section 426(2)(b).

approved baseline assessment plan, for the area of a petroleum tenure, means a baseline assessment plan for the area that is approved under section 399.

approved final report means a final report that is approved under section 385.

approved underground water impact report means an underground water impact report that is approved under section 385.

authorised use or purpose, of water, for chapter 3, see section 362.

baseline assessment, for chapter 3, see section 362.

baseline assessment plan, for the area of a petroleum tenure, means a baseline assessment plan that complies with section 397(2).

bore assessment, of a water bore, see section 411.

bore owner, of a water bore, for chapter 3, see section 362.

bore trigger threshold, for an aquifer, for chapter 3, see section 362.

closing CMA tenure, for chapter 3, see section 362.

CMA tenure, for chapter 3, see section 362.

commencement, for chapter 9, part 5, division 16, see section 1179.

commercially sensitive, for sections 445 and 446, means reasonably expected to affect adversely a person's commercial activities.

consolidated aquifer, for chapter 3, see section 362.

consultation day, for a proposed underground water impact report or final report, for chapter 3, see section 362.

cumulative management area, for chapter 3, means an area declared to be a cumulative management area under section 365.

election notice see section 426(2).

final report means a final report given under section 374.

immediately affected area see section 387.

immediately affected area bore, for chapter 3, part 5, see section 408.

impact considerations, for chapter 3, see section 362.

impaired capacity, of a water bore, see section 412.

long-term affected area see section 387.

make good agreement, for a water bore, see section 420.

make good measure, for a water bore, see section 421.

[s 206]

make good obligations, of a petroleum tenure holder for a water bore, for chapter 3, see section 362.

notice of closure means a notice of closure given under section 372 or 373.

petroleum tenure—

- (a) generally, means—
 - (i) a 1923 Act petroleum tenure under the *Petroleum Act 1923*; or
 - (ii) a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*; and
- (b) for chapter 3, part 2, divisions 3 and 4—includes a part of a petroleum tenure.

petroleum tenure holder—

- 1 Generally, a *petroleum tenure holder* means a person who holds a petroleum tenure.
- 2 For chapter 2, part 6, a *petroleum tenure holder* does not include an owner mentioned in section 206(1).

production testing, for chapter 3, see section 362.

relevant underground water rights, for chapter 3, see section 362.

report obligation, for chapter 3, see section 362.

responsible entity, for chapter 3, see section 362.

responsible tenure holder, for chapter 3, see section 362.

spring impact management strategy means a spring impact management strategy that complies with section 379.

start day, for a petroleum tenure, for chapter 3, see section 362.

submissions summary see section 383(1)(b).

unconsolidated aquifer, for chapter 3, see section 362.

underground water impact report, for chapter 3, means an underground water impact report that complies with section 376.

underground water obligation, of a petroleum tenure holder, for chapter 3, see section 362.

underground water rights means—

- (a) for a 1923 Act petroleum tenure under the *Petroleum Act 1923*—the taking of water necessarily taken as part of production testing or petroleum production under 1 or more 1923 Act petroleum tenures; or
- (b) for a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*—see section 185(2)(a) of that Act.

water level, of an aquifer, for chapter 3, see section 362.

water monitoring authority means a water monitoring authority granted under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*.

water monitoring bore, for chapter 3, see section 362.

water monitoring strategy means a water monitoring strategy that complies with section 378.

wild river special floodplain management area means a special floodplain management area under the *Wild Rivers Act 2005*.

Part 15

Amendment of Water Supply (Safety and Reliability) Act 2008

207 Act amended

This part amends the *Water Supply (Safety and Reliability) Act 2008*.

[s 208]

208 Amendment of s 20 (Who must apply for registration as a service provider)

Section 20(2), after ‘recycled water’—

insert—

‘, or that supplies recycled water that is coal seam gas water.’.

209 Amendment of s 114 (Application of div 5)

Section 114—

insert—

‘(3) This division, other than this subsection, does not apply to a service provider that is a distributor-retailer.

Note—

For the rights and obligations of customers of a distributor-retailer, see the *South-East Queensland (Distribution and Retail Restructuring) Act 2009*, chapter 4, part 4 and the customer water and wastewater code made under that Act.’.

210 Replacement of s 198 (Sections 198–199 not used)

Section 198—

omit, insert—

‘198 Offence about compliance with post supply obligation

‘(1) This section applies if—

- (a) a post supply obligation is imposed on a responsible entity for a CSG (aquifer) recycled water scheme; and
- (b) the supply of recycled water under the scheme has stopped, whether or not the approved recycled water management plan for the scheme has been suspended or cancelled.

‘(2) The responsible entity must comply with the post supply obligation.

Maximum penalty—1665 penalty units.

‘(3) In this section—

responsible entity, for a CSG (aquifer) recycled water scheme, includes an entity that, immediately before the supply of recycled water under the scheme stopped, was a responsible entity for the scheme.

‘199 Offences about compliance with conditions of exclusion decision

- ‘(1) This section applies if an exclusion decision applies for a CSG (pt 9A, div 3) scheme, or part of a CSG (pt 9A, div 3) scheme.
- ‘(2) A responsible entity for the CSG (pt 9A, div 3) scheme must comply with the conditions of the exclusion decision to the extent they apply to the responsible entity.
- Maximum penalty—1665 penalty units.’.

211 Amendment of s 200 (Purpose of recycled water management plan)

Section 200(a) and (b)—

omit, insert—

- ‘(a) if the plan is for a critical recycled water scheme—
- (i) to protect public health; and
 - (ii) if applicable, to ensure the continuity of operation of the scheme; or
- (b) otherwise—to protect public health.’.

212 Amendment of s 201 (Preparing particular plans)

- (1) Section 201(5)(b)—

insert—

‘Examples of infrastructure for the production or supply of recycled water that is coal seam gas water—

feed ponds, petroleum wells, storage and distribution infrastructure, treatment plants’.

- (2) Section 201(5)(g), after ‘recycled water’—

[s 213]

insert—

‘for the plan’.

- (3) Section 201(5)—

insert—

‘(ga) include the incident and emergency response plan for the scheme; and’.

- (4) Section 201(5)(ga) and (h)—

renumber as section 201(5)(h) and (i).

- (5) Section 201—

insert—

- ‘(6) Subsection (5) does not apply to an interim recycled water management plan for a CSG recycled water scheme.’.

213 Insertion of new s 201A

After section 201—

insert—

‘201A Additional requirements for plans for CSG recycled water schemes

- ‘(1) This section applies to a recycled water management plan for a CSG recycled water scheme.
- ‘(2) In addition to complying with section 201, the plan must—
- (a) demonstrate how any risks associated with variations in the quality of the source water will be managed; and
 - (b) include the pre-supply water quality data for the scheme; and
 - (c) if the scheme is a CSG (aquifer) recycled water scheme—
 - (i) identify the hazards and hazardous events that may affect the quality of the relevant water for the scheme (the *relevant hazards and hazardous events*); and

- (ii) include an assessment of the risks posed by the relevant hazards and hazardous events; and
- (iii) demonstrate how the risks posed by the relevant hazards and hazardous events are proposed to be managed; and
- (iv) include a validation program for the scheme.

‘(3) In this section—

pre-supply water quality data means data about the results of testing, carried out in the way and at the times required under the guidelines mentioned in section 201(4)(a), of the quality of the following water—

- (a) the water in feed ponds for the scheme or, if data for the water in feed ponds is not available, the water from petroleum wells for the scheme;
- (b) the coal seam gas water at the point of supply nominated in the recycled water management plan;
- (c) for a plan relating to a CSG recycled water scheme under which recycled water is supplied by its release, directly or indirectly, into an aquifer—the water in the aquifer before the recycled water is released.

relevant location, for a drinking water service provider, has the meaning given for part 9A.

relevant water, for a CSG (aquifer) recycled water scheme, means each of the following—

- (a) the recycled water supplied under the scheme;
- (b) the water in the aquifer after the recycled water has been released into it;
- (c) the water in the aquifer at the relevant location for a drinking water service provider.

source water means coal seam gas water produced under the CSG recycled water scheme, including coal seam gas water from a petroleum well or in a feed pond.’

[s 214]

214 Amendment of s 202 (Application for approval of recycled water management plan)

Section 202(3), after ‘, recycled water’—

insert—

‘, other than coal seam gas water.’

215 Amendment of s 205 (Consideration of application)

Section 205(2)(c), after ‘of recycled water’—

insert—

‘, other than coal seam gas water.’

216 Amendment of s 206 (Notice of decision)

Section 206—

insert—

- ‘(5) To remove any doubt, it is declared that a regulator condition of the approval may, if the recycled water management plan relates to a CSG (aquifer) recycled water scheme, impose a post supply obligation on a responsible entity for the scheme.

Note—

See also part 9A, division 5 in relation to post supply obligations.’

217 Amendment of s 207 (When regulator must not approve recycled water management plan)

- (1) Section 207(1)(a), after ‘recycled water’—

insert—

‘, other than coal seam gas water.’

- (2) Section 207—

insert—

- ‘(1A) Also, this section applies to a recycled water scheme under which recycled water that is coal seam gas water is proposed

to be supplied by its delivery to a drinking water service provider whose drinking water service includes the treatment, transmission or reticulation of the water for supply as drinking water.’.

- (3) Section 207(2), from ‘for the water’—

omit, insert—

‘for—

- (a) if subsection (1) applies—the water storage; or
- (b) if subsection (1A) applies—the part of the drinking water service to which the recycled water is delivered and any other part of the drinking water service that uses the recycled water.’.

218 Amendment of s 210 (Amendment of recycled water management plan for single-entity recycled water scheme—requirement of regulator)

Section 210(1)(a) and (b)—

omit, insert—

- ‘(a) if the scheme is a critical recycled water scheme—
 - (i) to protect public health; or
 - (ii) to ensure the continuity of operation of the scheme;or
- (b) otherwise—to protect public health.’.

219 Amendment of s 211 (Amendment of recycled water management plan for multiple-entity recycled water scheme—requirement of regulator)

Section 211(1)(a) and (b)—

omit, insert—

- ‘(a) if the scheme is a critical recycled water scheme—
 - (i) to protect public health; or

[s 220]

- (ii) to ensure the continuity of operation of the scheme;
or
- (b) otherwise—to protect public health.’.

220 Amendment of s 235 (Application of pt 4)

Section 235, after ‘if recycled water’—
insert—
‘, other than coal seam gas water,’.

221 Amendment of ch 3, pt 7 hdg (Reporting requirements and annual reports)

Chapter 3, part 7, heading, ‘and annual reports’—
omit.

222 Replacement of ch 3, pt 7, div 1 hdg (Reporting requirements)

Chapter 3, part 7, division 1, heading—
omit, insert—

‘Division 1 Notices to be given’.

223 Omission of s 274 (Sections 274–299 not used)

Section 274—
omit.

224 Insertion of new ch 3, pt 7, div 3

Chapter 3, part 7—
insert—

‘Division 3 Public reports

‘274 Public reporting requirement

- ‘(1) This section applies if recycled water is supplied under—
- (a) a CSG recycled water scheme; or
 - (b) a recycled water scheme, other than a CSG recycled water scheme, to augment a supply of drinking water; or
 - (c) a recycled water scheme to premises by way of a reticulation system used only to provide recycled water for outdoor use or for use in flushing toilets or in washing machines.
- ‘(2) The relevant entity for the recycled water scheme must, for each reporting period, prepare and make publicly available a report about the scheme (a *public report*) in compliance with subsection (6).
- Maximum penalty—500 penalty units.
- ‘(3) The relevant entity must comply with subsection (2) unless the relevant entity has a reasonable excuse.
- ‘(4) It is not a reasonable excuse for subsection (2) that the public report may tend to incriminate the relevant entity.
- ‘(5) However, if the relevant entity is an individual, evidence of, or evidence directly or indirectly derived from, the public report that might incriminate the entity is not admissible in evidence against the entity in a civil or criminal proceeding, other than a proceeding for an offence about the falsity of the information.
- ‘(6) A public report for a reporting period must—
- (a) be made publicly available within 30 business days after the last day of the reporting period; and
 - (b) include the results of water quality monitoring carried out for the recycled water scheme during the reporting period by—

[s 225]

- (i) for a single-entity recycled water scheme—the recycled water provider; or
- (ii) for a multiple-entity recycled water scheme—the scheme manager and each recycled water provider and other declared entity for the scheme; and
- (c) include details of the information given to the regulator under sections 270 and 271 during the reporting period by the entity or entities mentioned in paragraph (b); and
- (d) subject to paragraphs (a) to (c), be prepared and made publicly available as required under the guidelines made by the regulator about the preparation and publication of reports under this section.

‘(7) In this section—

reporting periods means—

- (a) each of the following 3 month periods in a year—
 - (i) 1 January to 31 March;
 - (ii) 1 April to 30 June;
 - (iii) 1 July to 30 September;
 - (iv) 1 October to 31 December; or
- (b) if the regulator gives the relevant entity a notice stating reporting periods that are longer than the periods mentioned in paragraph (a)—the longer periods.

‘275 Sections 275–299 not used

‘See editor’s note for section 1.’.

225 Amendment of s 301 (Making declaration)

- (1) Section 301(2)(a), after ‘recycled water’—

insert—

‘, other than coal seam gas water,’.
- (2) Section 301(2), after paragraph (a)—

insert—

‘(ab) recycled water that is coal seam gas water is supplied or proposed to be supplied under the scheme; or’.

(3) Section 301(2)(ab) to (c)—

renumber as section 301(2)(b) to (d).

226 Amendment of s 316 (Application of pt 9)

Section 316(a), after ‘scheme’—

insert—

‘, other than a scheme under which recycled water that is coal seam gas water is produced or supplied’.

227 Omission of s 318 (Sections 318–329 not used)

Section 318—

omit.

228 Insertion of new ch 3, pt 9A

Chapter 3—

insert—

‘Part 9A Coal seam gas water

‘Division 1 Preliminary

‘318 Meaning of *relevant location* for a drinking water service provider

‘(1) For this part, the *relevant location*, for a drinking water service provider, is the location at which the drinking water service provider is authorised, under the Water Act, to take water that is, or is intended to be, supplied as drinking water.

[s 228]

- ‘(2) A reference in this part to the relevant location for a drinking water service provider includes, in relation to the SEQ region, a reference to the location at which the SEQ Water Grid Manager is authorised to take water under the Water Act.

‘Division 2 **Exclusion from chapter 3 of particular schemes involving release into aquifers**

‘319 **Exclusion of particular CSG recycled water schemes involving release of coal seam gas water into aquifers**

- ‘(1) This section applies to a CSG (aquifer) recycled water scheme if the supply of coal seam gas water under the scheme has no material impact on the drinking water supply of a drinking water service provider.
- ‘(2) The coal seam gas water produced or supplied under the CSG (aquifer) recycled water scheme is taken not to be recycled water for this chapter.
- ‘(3) For this section, the supply of coal seam gas water under the CSG (aquifer) recycled water scheme has *no material impact* on the drinking water supply of a drinking water service provider only in the circumstances prescribed under a regulation for this section.

Note—

If the prescribed circumstances do not apply for a CSG (aquifer) recycled water scheme, a responsible entity for the scheme may apply to the regulator for an exclusion decision.

**‘Division 3 Exclusion from chapter 3 of CSG
recycled water schemes by
regulator**

‘Subdivision 1 Preliminary

‘320 Application of div 3

- ‘(1) This division applies to a CSG recycled water scheme under which recycled water is proposed to be supplied by its release, directly or indirectly, into a water source.
- ‘(2) A recycled water scheme mentioned in subsection (1) is a *CSG (pt 9A, div 3) scheme*.
- ‘(3) A reference in this division to a CSG (pt 9A, div 3) scheme includes, if the context permits, a reference to part of a CSG (pt 9A, div 3) scheme.

‘321 Purpose of div 3

‘The purpose of this division is to enable a responsible entity for a CSG (pt 9A, div 3) scheme to obtain a decision (an *exclusion decision*) from the regulator excluding the coal seam gas water produced or supplied under the scheme from the requirements of this chapter.

**‘Subdivision 2 Applications for, and making of,
exclusion decisions**

‘322 Application for exclusion decision

- ‘(1) A responsible entity for a CSG (pt 9A, div 3) scheme may apply to the regulator for an exclusion decision for the scheme.
- ‘(2) The application must—
 - (a) be in the approved form; and

[s 228]

- (b) be accompanied by—
 - (i) if pre-supply water quality data is required under subsection (3)—pre-supply water quality data; and
 - (ii) any other information or documents required to be given under the guidelines, if any, made by the regulator about applying for an exclusion decision; and
 - (c) be supported by enough information to enable the regulator to decide the application; and
 - (d) be accompanied by the fee prescribed under a regulation.
- ‘(3) Pre-supply water quality data must accompany the application unless—
- (a) recycled water is proposed to be supplied under the CSG (pt 9A, div 3) scheme by its direct release into an aquifer; and
 - (b) there is no relevant location for a drinking water service provider within the hydraulic impact zone from the release of the recycled water.
- ‘(4) If the CSG (pt 9A, div 3) scheme is a multiple-entity recycled water scheme, the applicant must, as soon as practicable after the application is made, give each other responsible entity for the scheme a copy of the application.
- ‘(5) For this section, *pre-supply water quality data* has the meaning given under section 201A.
- ‘(6) For subsection (5), the definition of *pre-supply water quality data* in section 201A applies as if the reference to the recycled water management plan in paragraph (b) of the definition were a reference to the application.

‘323 Additional information may be required

- ‘(1) The regulator may, by notice given to the applicant, require—

- (a) the applicant to give the regulator additional information about the application; or
 - (b) any information included in the application, or any additional information required under paragraph (a), to be verified by statutory declaration.
- ‘(2) If the applicant fails, without reasonable excuse, to comply with the requirement within the reasonable period stated in the notice, the application is taken to have been withdrawn.
- ‘(3) A requirement under this section is an *information requirement*.

‘324 Regulator may obtain advice about application

‘The regulator may obtain advice from an advisory council or any other entity the regulator considers appropriate before deciding the application.

‘325 Consideration of application

- ‘(1) The regulator must consider the application and decide to make, with or without conditions, or refuse to make, an exclusion decision—
- (a) if an information requirement is not made in relation to the application—within 60 business days after receiving the application; or
 - (b) if an information requirement is made in relation to the application—within 60 business days after the requirement has been complied with.
- ‘(2) The regulator may make an exclusion decision for the CSG (pt 9A, div 3) scheme only if the regulator reasonably believes the supply of recycled water under the scheme will not have a material impact on the drinking water supply of a drinking water service provider.
- ‘(3) In deciding whether the supply of recycled water under the CSG (pt 9A, div 3) scheme will have a material impact on the

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drinking water supply of a drinking water service provider, the regulator must consider the following—

- (a) if recycled water is proposed to be supplied under the scheme by its direct release into an aquifer—
 - (i) whether the relevant location for a drinking water service provider is located within the hydraulic impact zone from the release of the recycled water; and
 - (ii) if so, whether it is likely there will be an adverse detectable change in the quality of the water at the relevant location, including having regard to the difference between the quality of the recycled water at the point of supply nominated in the application and the quality of the water in the aquifer before the recycled water is released;
 - (b) if recycled water is proposed to be supplied under the scheme by its release, directly or indirectly, into a water source and paragraph (a) does not apply—
 - (i) the ratio of the recycled water to other water in the water source at the relevant location for a drinking water service provider; and
 - (ii) the duration of the ratio mentioned in subparagraph (i) at the relevant location;
 - (c) the cumulative impacts of the release of coal seam gas water, other than recycled water proposed to be supplied under the CSG recycled water scheme, in the water source at the relevant location for a drinking water service provider;
 - (d) the water quality criteria for recycled water;
 - (e) any other matters the regulator considers relevant.
- ‘(4) Also, in considering whether to make an exclusion decision, the regulator must have regard to each of the following—
- (a) the application and any additional information received under section 323;

- (b) if the applicant is the holder of a CSG environmental authority under the *Environmental Protection Act 1994*, section 310D—the environmental management plan under that Act for the authority;
- (c) the guidelines, if any, made by the regulator about making exclusion decisions;
- (d) any advice obtained by the regulator under section 324.

'326 Notice of decision

- '(1) Within 10 business days after deciding the application, the regulator must give the applicant—
 - (a) if the decision is to make an exclusion decision for the CSG (pt 9A, div 3) scheme without conditions—notice of the decision; or
 - (b) an information notice for any of the following decisions—
 - (i) a decision to make an exclusion decision for the CSG (pt 9A, div 3) scheme with conditions;
 - (ii) a decision to make an exclusion decision for part of the CSG (pt 9A, div 3) scheme, if the applicant applied for an exclusion decision for the whole scheme;
 - (iii) a decision to refuse to make an exclusion decision.
- '(2) If the regulator makes an exclusion decision, the notice of the decision or the information notice for the decision must state any conditions of the exclusion decision.
- '(3) If the CSG (pt 9A, div 3) scheme is a multiple-entity scheme, the applicant must, as soon as practicable after receiving the notice of the decision or the information notice for the decision, give each other responsible entity for the scheme a copy of the notice or information notice.

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'327 Provision about conditions of exclusion decision

- '(1) A condition of an exclusion decision for a CSG (pt 9A, div 3) scheme may require 1 or more of the following—
- (a) the monitoring of, and giving of reports to the regulator about, the quality of the water—
 - (i) at the point of supply nominated in the application for the exclusion decision; and
 - (ii) in the water source after recycled water is released into it under the scheme;
 - (b) the provision of information to confirm the validity of information included in, or accompanying, the application;
 - (c) the quality of the water mentioned in paragraph (a) to meet stated standards that are consistent with information included in, or accompanying, the application;
 - (d) the notification of the regulator if there is a change of circumstances that is or may be relevant to whether the supply of recycled water under the scheme has a material impact on the drinking water supply of a drinking water service provider.
- '(2) Subsection (1) does not limit what a condition of an exclusion decision for a CSG (pt 9A, div 3) scheme may be about.
- '(3) An exclusion decision applies only if each responsible entity for the CSG (pt 9A, div 3) scheme complies with the conditions of the exclusion decision to the extent they apply to the responsible entity.

'328 Duration of exclusion decision

'An exclusion decision applies for the period—

- (a) starting on the day the decision is made by the regulator or a later day stated in the notice of the decision; and
- (b) ending on the day the decision is revoked under subdivision 3.

‘329 Effect of exclusion decision

- ‘(1) This section applies if an exclusion decision applies for a CSG (pt 9A, div 3) scheme.
- ‘(2) The coal seam gas water produced or supplied under the scheme is taken not to be recycled water for the purposes of this chapter, other than section 199, this division and section 329J.

‘Subdivision 3 Revocation of exclusion decisions

‘329A Grounds on which exclusion decision may be revoked by regulator

- ‘(1) The regulator may revoke the exclusion decision for a CSG (pt 9A, div 3) scheme if the regulator reasonably believes the supply of recycled water under the scheme is likely to have a material impact on a drinking water supply of a drinking water service provider.
- ‘(2) For subsection (1), the regulator must consider the matters mentioned in section 325(3).

‘329B Process for revoking exclusion decision

- ‘(1) Before revoking an exclusion decision for a CSG (pt 9A, div 3) scheme, the regulator must give the responsible entity who applied for the exclusion decision (the *original applicant*) a show cause notice about the proposed revocation.
- ‘(2) If, after considering all properly made submissions about the proposed revocation, the regulator decides to revoke the exclusion decision, the regulator must—
 - (a) give the original applicant a notice stating—
 - (i) the day on which the exclusion decision is revoked; and
 - (ii) that, within the compliance period, the original applicant must prepare, and give to the regulator

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- for approval, the relevant plan or an amendment to the relevant plan; and
- (b) if the scheme is a multiple-entity recycled water scheme—give each other responsible entity for the scheme a notice stating that—
 - (i) the exclusion decision for the scheme has been revoked; and
 - (ii) within the compliance period, the responsible entity must prepare, and give to the regulator for approval, the relevant plan or an amendment to the relevant plan; and
 - (c) give an information notice for the decision to revoke the exclusion decision to the following entities (each a *relevant party*)—
 - (i) the original applicant;
 - (ii) each entity required under paragraph (b) to be given notice of the revocation.
- ‘(3) The day stated in the notice under subsection (2)(a)(i) must not be earlier than the day the notice is given to the original applicant.
- ‘(4) Section 196 does not apply to a relevant party, to the extent recycled water is supplied under a part of the CSG (pt 9A, div 3) scheme to which the exclusion decision applied before its revocation—
- (a) during the compliance period; and
 - (b) if the relevant party applies for approval of the relevant plan, or an amendment to the relevant plan, within the compliance period—until the relevant party is given a notice or information notice under section 206 for the regulator’s decision on the application for approval.
- ‘(5) If, after considering all properly made submissions about the proposed revocation, the regulator decides the exclusion decision should not be revoked, the regulator must give the original applicant notice that the exclusion decision has not been revoked.

‘(6) In this section—

compliance period means—

- (a) 3 months from the day notice of the revocation of the exclusion decision is given to the original applicant; or
- (b) if the regulator gives the relevant parties a notice stating that the compliance period is a period that is more than 3 months, but not more than 6 months, from the day mentioned in paragraph (a)—that period.

relevant plan means—

- (a) for a CSG (pt 9A, div 3) scheme that is a single-entity recycled water scheme—a recycled water management plan for the scheme; or
- (b) for a CSG (pt 9A, div 3) scheme that is a multiple-entity recycled water scheme—
 - (i) if the responsible entity to whom a notice is given under subsection (2)(b) is the scheme manager for the scheme—a scheme manager plan for the scheme; or
 - (ii) otherwise—a scheme provider plan for the scheme.

‘329C Water quality monitoring and reporting may be required if revocation decision is stayed

‘(1) This section applies if—

- (a) the regulator decides to revoke an exclusion decision; and
- (b) an interested person for the decision (the *original decision*) to revoke the exclusion decision applies for internal review of, or appeals against, the original decision under chapter 7; and
- (c) the original decision, or a review decision about the original decision, is stayed by the Planning and Environment Court under chapter 7.

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- ‘(2) The regulator may, by notice given to a recycled water provider or any other responsible entity for the CSG (pt 9A, div 3) scheme (the *relevant person*), require the relevant person to do any of the following—
- (a) carry out monitoring, described in the notice, of the quality of—
 - (i) recycled water produced or supplied under the scheme, including the water in feed ponds for the scheme or, if it is not possible to monitor water in feed ponds, water from petroleum wells for the scheme; or
 - (ii) the water in a water source into which recycled water is released under the scheme;
 - (b) give the regulator reports, at the intervals stated in the notice, about the results of the monitoring mentioned in paragraph (a);
 - (c) give the regulator other reports about the operation of the scheme, including, for example, reports about whether the quality of water produced or supplied under the scheme is consistent with the water quality criteria for recycled water stated in the notice.
- ‘(3) However, the notice may require the relevant person to do a thing mentioned in subsection (2) only while the original decision, or a review decision about the original decision, is stayed.
- ‘(4) The relevant person must comply with the notice unless the relevant person has a reasonable excuse.

Maximum penalty—500 penalty units.

‘Division 4 Interim recycled water management plans for particular CSG recycled water schemes

‘329D CSG recycled water scheme may have interim recycled water management plan for interim period

- ‘(1) The approved recycled water management plan for a CSG (pt 9A, div 3) scheme may, for the interim period for the scheme, be an approved recycled water management plan that complies with section 329E instead of section 201(5).
- ‘(2) A recycled water management plan that complies with section 329E is an *interim recycled water management plan*.
- ‘(3) The *interim period* for a CSG (pt 9A, div 3) scheme is—
 - (a) the period that is 1 year from the day recycled water that is coal seam gas water is first supplied under the scheme; or
 - (b) if a shorter period is decided by the regulator under subsection (4)—the shorter period.
- ‘(4) The regulator may decide the interim period for the CSG (pt 9A, div 3) scheme is shorter than the 1 year period mentioned in subsection (3)(a) if the regulator reasonably believes the shorter period is necessary to protect public health.
- ‘(5) If the regulator decides a shorter period under subsection (4), the regulator must give each responsible entity for the CSG (pt 9A, div 3) scheme a notice stating the reasonable period at the end of which the interim period for the scheme will end.
- ‘(6) Subsection (1) does not prevent a responsible entity for the CSG (pt 9A, div 3) scheme preparing, and applying for approval of, a recycled water management plan that complies with section 201(5) during the interim period for the scheme.

‘329E Content of interim recycled water management plan

- ‘(1) An interim recycled water management plan must—

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- (a) describe the CSG (pt 9A, div 3) scheme to which the plan relates; and
- (b) include details of the infrastructure for the production or supply of recycled water under the scheme, and how the infrastructure is to be maintained; and

Examples of infrastructure for the production or supply of recycled water that is coal seam gas water—

feed ponds, petroleum wells, storage and distribution infrastructure, treatment plants

- (c) include the water quality criteria for recycled water for the plan; and
- (d) include the verification program for the scheme; and
- (e) include the water quality monitoring and reporting program for the scheme; and
- (f) include the incident and emergency response plan for the scheme; and
- (g) comply with section 201A(2)(a) to (c).

(2) In this section—

verification program, for a CSG (pt 9A, div 3) scheme, means a documented program about how the recycled water produced or supplied under the scheme will be tested to show the quality of the recycled water consistently meets the water quality criteria for recycled water relevant to the plan.

water quality monitoring and reporting program, for a CSG (pt 9A, div 3) scheme, means a documented program about—

- (a) how the quality of the recycled water under the scheme is to be monitored, including—
 - (i) the frequency of the monitoring; and
 - (ii) the parameters to be used for indicating compliance with the plan and the water quality criteria for recycled water relevant to the plan; and
- (b) the giving of periodic reports about the monitoring to the regulator.

‘329F Reviews and audits not required for interim recycled water management plan

- ‘(1) The matters mentioned in section 206(2)(b) to (d) must not be stated in a notice or information notice given under section 206 for an interim recycled water management plan.
- ‘(2) Sections 258 to 261 do not apply if the approved recycled water management plan for a CSG (pt 9A, div 3) scheme is an interim recycled water management plan.

‘329G Ending of approval of interim recycled water management plan

‘The approval of an interim recycled water management plan for a CSG (pt 9A, div 3) scheme ends on the earlier of the following days—

- (a) the day the interim period for the scheme ends;
- (b) the day the regulator approves a recycled water management plan for the scheme, other than an interim recycled water management plan.

‘Division 5 Other provisions

‘329H What is a *post supply obligation*

‘A *post supply obligation* is an obligation imposed on a responsible entity for a CSG (aquifer) recycled water scheme—

- (a) under a regulator condition of the approved recycled water management plan for the scheme; and

Note—

The approved recycled water management plan for the scheme may be an approved interim recycled water management plan.

- (b) that applies or continues to apply after the supply of recycled water under the scheme has stopped, including if the plan is suspended or cancelled.

‘329I Application of enforcement provisions for post supply obligations

- ‘(1) This section applies if a post supply obligation is imposed on a responsible entity for a CSG (aquifer) recycled water scheme.
- ‘(2) For chapter 5, part 5 and section 329J, after the supply of recycled water under the CSG (aquifer) recycled water scheme has stopped—
- (a) the entities and infrastructure that comprised the scheme immediately before the supply stopped are taken to continue to comprise the scheme; and
 - (b) an entity that was a responsible entity for the scheme immediately before the supply stopped continues to be a responsible entity for the scheme; and
 - (c) to the extent the regulator conditions of the approved recycled water management plan imposed the post supply obligation, the conditions continue to have effect—
 - (i) despite the stopping of supply under the scheme; and
 - (ii) whether or not the plan has been suspended or cancelled.
- ‘(3) Subsection (2) stops applying when all post supply obligations in relation to the CSG (aquifer) recycled water scheme have been complied with.

‘329J Power to enter land for compliance with particular requirements under ch 3

- ‘(1) This section applies if a responsible entity for a CSG (aquifer) recycled water scheme is subject to a post supply obligation.
- ‘(2) Also, this section applies if the responsible entity for a CSG recycled water scheme must undertake monitoring of the quality of water—

-
- (a) to comply with an obligation under this Act, including, for example, under an approved recycled water management plan, a condition of an exclusion decision for the scheme, or a notice given to the responsible entity under section 329C or 643; or
 - (b) to make an application for—
 - (i) approval of a recycled water management plan for the scheme; or
 - (ii) an exclusion decision for the scheme.
- ‘(3) A requirement to undertake monitoring mentioned in subsection (2) is a *monitoring requirement*.
- ‘(4) The post supply obligation or monitoring requirement is taken to be an environmental requirement for the purposes of the *Environmental Protection Act 1994*, chapter 12, part 4.
- ‘(5) For subsection (4), the *Environmental Protection Act 1994*, chapter 12, part 4 applies as if—
- (a) a reference in section 575 of that Act to the conduct of work includes a reference to the carrying out of monitoring, or doing anything else, required under the post supply obligation or monitoring requirement; and
 - (b) a reference in section 578 of that Act to the administering authority were a reference to the regulator; and
 - (c) a reference in section 579 of that Act to a person who, under that Act, must comply with an environmental requirement were a reference to a responsible entity required to comply with the post supply obligation or monitoring requirement under this Act.’.

229 Amendment of s 410 (Power to enter land to monitor compliance)

- (1) Section 410(b), from ‘in relation to’ to ‘or recycled water’—
omit.
- (2) Section 410—

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insert—

- ‘(d) the conditions of an exclusion decision are being complied with; or
- (e) any of the following are being complied with—
 - (i) a notice issued to a responsible entity for a CSG (pt 9A, div 3) scheme under section 329C(2);
 - (ii) a notice issued to a drinking water service provider under section 630(2);
 - (iii) a notice issued to a recycled water provider under section 643(2).’.

230 Amendment of s 435 (Application of pt 5)

- (1) Section 435—

insert—

‘(1A) If a post supply obligation is imposed in relation to a CSG (aquifer) recycled water scheme, a reference in this section to an event includes a reference to an event that happens or is likely to happen after the supply of recycled water under the scheme has stopped, whether or not the approved recycled water management plan for the scheme has been suspended or cancelled.

‘(1B) Subsection (1A) applies subject to section 329I(3).’.

- (2) Section 435(2), definition *noncompliance*, paragraph (b), from ‘complied with’—

omit, insert—

‘complied with—

- (i) the recycled water management plan for the scheme or a condition of the plan, including a post supply obligation imposed under a condition of the plan; or
- (ii) a notice issued to the responsible entity under section 329C(2); or’.

- (3) Section 435(2), definition *noncompliance*, paragraph (c), from ‘complied with’—

omit, insert—

‘complied with—

- (i) an exemption given under this Act for the scheme or a condition of the exemption; or
- (ii) a notice issued to the provider under section 643(2); or’.

- (4) Section 435(2), definition *noncompliance*—

insert—

‘(d) a responsible entity for a CSG recycled water scheme has not complied with a condition of an exclusion decision for the scheme that applies to the responsible entity.’.

231 Amendment of s 441 (Definitions for div 3)

Section 441, definition *event*—

omit, insert—

‘*event*—

- (a) means anything that has happened or is likely to happen, in relation to a recycled water scheme or drinking water service, that may have an adverse effect on public health; and
- (b) if a post supply obligation is imposed in relation to a CSG (aquifer) recycled water scheme—subject to section 329I(3), includes anything that happens or is likely to happen after the supply of recycled water under the scheme has stopped, whether or not the approved recycled water management plan for the scheme has been suspended or cancelled.’.

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232 Amendment of s 571 (Regulator may make guidelines)

(1) Section 571(1)—

insert—

‘(ja) applying for, and making, exclusion decisions;

(la) preparing, and making publicly available, reports under section 274;’.

(2) Section 571(1)(ja) to (q)—

renumber as section 571(k) to (s).

233 Amendment of s 579 (Regulator may share particular information)

Section 579(2)—

insert—

‘(f) a responsible entity that is the scheme manager, or a recycled water provider or other declared entity, for a CSG recycled water scheme.’.

234 Amendment of s 628 (Application of particular provision)

(1) Section 628(5)(a)(i), after ‘water’—

insert—

‘, other than coal seam gas water’.

(2) Section 628(5)—

insert—

‘(c) the treatment, transmission or reticulation of recycled water that is coal seam gas water delivered to the drinking water service provider by another entity.’.

235 Amendment of s 633 (Application of particular provisions—other schemes)

Section 633(1)—

insert—

‘(c) that is an existing CSG recycled water scheme under chapter 10, part 4.’.

236 Insertion of new ch 10, pt 4

Chapter 10—

insert—

‘Part 4 Transitional provisions for Water and Other Legislation Amendment Act 2010

‘640 Definitions for pt 4

‘In this part—

commencement means the commencement of this part.

CSG environmental authority means a coal seam gas environmental authority within the meaning of the *Environmental Protection Act 1994*, section 310D.

existing CSG recycled water scheme means a recycled water scheme under which recycled water that was coal seam gas water was supplied before the commencement by its disposal under a CSG environmental authority.

transitional period, for an existing CSG recycled water scheme, see section 642(2).

‘641 Conditions of particular CSG environmental authorities taken to be interim recycled water management plan

‘(1) This section applies to an existing CSG recycled water scheme if, within 4 months after the commencement, the relevant CSG environmental authority for the scheme is prescribed for this section under a regulation.

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- ‘(2) The drinking water conditions of the relevant CSG environmental authority are taken to be an approved recycled water management plan for the existing CSG recycled water scheme.
- ‘(3) The approved recycled water management plan is an interim recycled water management plan.
- ‘(4) For chapter 3, part 9A, division 4, the interim period for the existing CSG recycled water scheme starts on the commencement of the regulation mentioned in subsection (1).
- ‘(5) For this section, the *drinking water conditions* of the relevant CSG environmental authority are the conditions of the authority that—
 - (a) relate to the augmentation of drinking water supplies of a drinking water service provider; and
 - (b) are identified in a notice given to the recycled water provider for the scheme by the regulator.

‘642 Transitional period for existing CSG recycled water schemes

- ‘(1) Section 196 does not apply in relation to an existing CSG recycled water scheme until the day after the transitional period for the scheme ends.
- ‘(2) The *transitional period* for an existing CSG recycled water scheme starts on the commencement and ends on the day provided for under subsections (3) to (5).
- ‘(3) If the relevant CSG environmental authority for an existing CSG recycled water scheme is prescribed for section 641, the transitional period for the scheme ends on the day the regulation prescribing the authority commences.
- ‘(4) The transitional period for an existing CSG recycled water scheme ends on the day that is 4 months after the commencement if, by that day—
 - (a) the recycled water provider has not applied for—

-
- (i) approval of a recycled water management plan for the scheme; or
 - (ii) an exclusion decision for the scheme or part of the scheme; and
 - (b) the relevant CSG environmental authority for the scheme has not been prescribed for section 641.
- ‘(5) If subsections (3) and (4) do not apply to an existing CSG recycled water scheme, the transitional period for the scheme ends on the earlier of the following days—
- (a) the day that is 15 months after the commencement;
 - (b) the day a recycled water management plan is approved for the scheme or an exclusion decision is made for the scheme or part of the scheme.

‘643 Provision about water quality monitoring and reporting

- ‘(1) This section applies in relation to an existing CSG recycled water scheme during the transitional period for the scheme.
- ‘(2) The regulator may, by notice given to the recycled water provider for the existing CSG recycled water scheme, require the provider to do any of the following—
 - (a) carry out monitoring, described in the notice, of the quality of—
 - (i) recycled water produced or supplied under the scheme, including water in feed ponds for the scheme or, if it is not possible to monitor water in feed ponds, water from the petroleum wells for the scheme; or
 - (ii) the water in a water source into which recycled water is released under the scheme;
 - (b) give the regulator reports, at the intervals stated in the notice, about the results of the monitoring mentioned in paragraph (a);

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- (c) give the regulator other reports about the operation of the scheme, including, for example, reports about whether the quality of water produced or supplied under the scheme is consistent with the water quality criteria for recycled water stated in the notice.
- ‘(3) The recycled water provider must comply with the notice unless the provider has a reasonable excuse.
Maximum penalty—500 penalty units.’.

237 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *multiple-entity recycled water scheme*, *recycled water*, *recycled water management plan*, *responsible entity*, *single-entity recycled water scheme* and *weir*—
omit.

- (2) Schedule 3—
insert—

‘*coal seam gas* means petroleum (in any state) occurring naturally in association with coal or oil shale, or in strata associated with coal or oil shale mining.

coal seam gas water means underground water brought to the surface of the earth in connection with exploring for or producing coal seam gas, and includes coal seam gas water—

- (a) whether it is treated or untreated; or
(b) that is mixed with other water.

commencement, for chapter 10, part 4, see section 640.

CSG environmental authority, for chapter 10, part 4, see section 640.

CSG (pt 9A, div 3) scheme see section 320(2).

CSG (aquifer) recycled water scheme means a CSG recycled water scheme under which recycled water is supplied by its release, directly or indirectly, into an aquifer.

CSG recycled water scheme means a recycled water scheme under which recycled water that is coal seam gas water is supplied, or produced and supplied.

exclusion decision see section 321.

existing CSG recycled water scheme, for chapter 10, part 4, see section 640.

hydraulic impact zone, from the release of recycled water that is coal seam gas water into an aquifer, means the zone in which there is an attributable change in hydraulic head within the aquifer.

incident and emergency response plan, for a recycled water scheme, means a documented plan about the procedures to be followed for incidents or emergencies that affect or may affect the quality of recycled water under the scheme, including—

- (a) the preventative and corrective actions to be taken; and
- (b) protocols for communication between entities that are part of the recycled water scheme, the regulator and any other stakeholders.

interim period, for a CSG (pt 9A, div 3) scheme, see section 329D(3).

interim recycled water management plan, for a CSG recycled water scheme, see section 329D(2).

lake has the meaning given under the Water Act.

multiple-entity recycled water scheme—

1 A *multiple-entity recycled water scheme* means a scheme involving—

- (a) the production and supply of recycled water other than coal seam gas water; or
- (b) the production and supply, or supply only, of recycled water that is coal seam gas water;

by more than 1 recycled water provider, or at least 1 recycled water provider and another entity.

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- 2 A *multiple-entity recycled water scheme* is made up of—
- (a) each recycled water provider and other entity declared to be part of the scheme under a declaration for the scheme made under chapter 3, part 8; and
 - (b) the infrastructure for—
 - (i) the production and supply of the recycled water; or
 - (ii) if the recycled water is coal seam gas water, the production and supply, or the supply only, of the recycled water;
- that is stated to be part of the scheme under the declaration.

petroleum well see the *Petroleum and Gas (Production and Supply) Act 2004*, schedule 2.

post supply obligation, for a CSG (aquifer) recycled water scheme, see section 329H.

recycled water means—

- (a) any of the following that are intended to be reused—
 - (i) sewage or effluent sourced from a service provider's sewerage;
 - (ii) wastewater, other than water mentioned in subparagraph (i); or
- (b) coal seam gas water that augments a supply of drinking water.

recycled water management plan means—

- (a) for a single-entity recycled water scheme—a plan about—
 - (i) the production and supply of recycled water other than coal seam gas water under the scheme by the recycled water provider for the scheme; or

-
- (ii) the production and supply, or supply only, of recycled water that is coal seam gas water under the scheme by the recycled water provider for the scheme; or
 - (b) for a multiple-entity recycled water scheme—a plan about—
 - (i) the production and supply of recycled water other than coal seam gas water under the scheme; or
 - (ii) the production and supply, or supply only, of recycled water that is coal seam gas water under the scheme;

consisting of a scheme manager plan and a scheme provider plan for each declared entity for the scheme.

relevant location, for chapter 3, part 9A, see section 318.

responsible entity—

- (a) for a CSG recycled water scheme, means—
 - (i) if the CSG recycled water scheme is a single-entity recycled water scheme—the recycled water provider for the scheme; or
 - (ii) if the CSG recycled water scheme is a multiple-entity recycled water scheme—the scheme manager and each recycled water provider or other declared entity for the scheme; or
- (b) for chapter 8, part 1, division 1—see section 530(3); or
- (c) for chapter 8, part 1, division 2—see section 535(1)(a).

single-entity recycled water scheme—

- (a) means a scheme involving—
 - (i) the production and supply of recycled water, other than coal seam gas water, by only 1 recycled water provider; or
 - (ii) the production and supply, or supply only, of recycled water that is coal seam gas water by only 1 recycled water provider; and

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- (b) includes infrastructure, owned by the provider, for the production and supply, or the supply only, of the water.

transitional period, for chapter 10, part 4, see section 642(2).

water source means any of the following—

- (a) a watercourse or lake, including a dam or weir across the watercourse or lake;
- (b) an aquifer;
- (c) a dam or weir that is not located across a watercourse or lake;
- (d) another source of water prescribed under a regulation.

weir—

- (a) means a barrier constructed across a watercourse below the banks of the watercourse that hinders or obstructs the flow of water in the watercourse; and
 - (b) for the definition of *water source*—includes a barrier constructed across or within a lake that interferes with water in the lake.’.
- (3) Schedule 3, definition *drinking water service*, paragraph (b)(i), after ‘water’—

insert—

‘, other than coal seam gas water’.

- (4) Schedule 3, definition *information requirement*—

insert—

‘(e) for chapter 3, part 9A—see section 323(3)’.

- (5) Schedule 3, definition *recycled water provider*, paragraph (a)—

omit, insert—

‘(a) owns infrastructure for—

- (i) the production and supply of recycled water other than coal seam gas water; or

-
- (ii) the production and supply, or the supply only, of recycled water that is coal seam gas water; or’.
- (6) Schedule 3, definition *recycled water provider*, paragraph (b), after ‘water’—
insert—
‘other than coal seam gas water’.
- (7) Schedule 3, definition *supply*, paragraph (b)—
renumber as paragraph (c).
- (8) Schedule 3, definition *supply*—
insert—
‘(b) for coal seam gas water that is recycled water—
(i) release of the recycled water, directly or indirectly, into a water source, if the recycled water is used by a drinking water service provider in a drinking water service; or
(ii) delivery of the recycled water by an entity, other than a drinking water service provider who uses the recycled water in a drinking water service, to another entity, if the recycled water is used by a drinking water service provider in a drinking water service; or’.

Part 16 **Amendment of Wild Rivers Act 2005**

238 Act amended

This part amends the *Wild Rivers Act 2005*.

239 Amendment of s 3 (Purpose of Act)

- (1) Section 3(1), from ‘preserve’—

[s 240]

omit, insert—

‘—

- (a) preserve the natural values of rivers that have all, or almost all, of their natural values intact; and
- (b) provide for the preservation of the natural values of rivers in the Lake Eyre Basin.’.

(2) Section 3(2)(d)—

renumber as section 3(2)(e).

(3) Section 3(2)—

insert—

‘(d) special floodplain management areas.’.

240 Amendment of s 8 (Public notice of intention to declare wild river area)

Section 8(2)(e) and (f)—

omit, insert—

‘(e) where the following information may be obtained—

- (i) further information about the proposed declaration;
- (ii) a document describing the moratorium that will have effect under section 10 during the moratorium period.’.

241 Amendment of s 9 (Moratorium period)

Section 9(1), ‘For a notice of intent’—

omit, insert—

‘For the notice of intent and the moratorium’.

242 Amendment of s 10 (Application of moratorium)

(1) Section 10(2), from ‘intent’ to ‘notice—’—

omit, insert—

‘intent and the document describing the moratorium for the notice is taken to be a moratorium notice and, to the extent stated in the notice and document—’.

- (2) Section 10(4)—

insert—

‘(d) the proposed special floodplain management area is taken to be a special floodplain management area.’.

243 Amendment of s 12 (Content of declaration proposal)

- (1) Section 12(1)—

insert—

‘(ea) the location of any proposed special floodplain management area;’.

- (2) Section 12(1)(n), after ‘management area’—

insert—

‘or special floodplain management area’.

244 Amendment of s 14 (Content of wild river declaration)

- (1) Section 14(1)—

insert—

‘(ea) the location of any special floodplain management area;’.

- (2) Section 14(1)(m), after ‘management area’—

insert—

‘or special floodplain management area’.

245 Amendment of s 17 (Effect of declaration on activities and taking natural resources)

Section 17(3)—

[s 246]

omit, insert—

- ‘(3) The person may do the following as if the declaration had not been made—
- (a) for subsection (1)(a) and (b)—continue, or start and continue, to carry out the activity or take the natural resource under the authorisation;
 - (b) for subsection (1)(c)—continue to carry out the activity.’.

246 Amendment of s 18 (Applications received but not decided)

- (1) Section 18(1), ‘applies.’—

omit, insert—

‘applies or has applied.’.

- (2) Section 18—

insert—

- ‘(4) To remove any doubt, it is declared that, for subsection (1), an application to which a moratorium under section 10(2) or (4) applies or has applied includes an application received but not decided before the moratorium had effect.’.

247 Amendment of s 19 (Amending a wild river declaration)

Section 19(2), ‘the purpose of this Act’—

omit, insert—

‘preservation of the natural values of rivers’.

248 Amendment of s 20 (Public notice of intention to amend wild river declaration)

Section 20(2)(c) and (d)—

omit, insert—

‘(c) where the following information may be obtained—

- (i) further information about the proposed amendment;
- (ii) a document describing any moratorium that will have effect under section 22 during the moratorium period.’.

249 Amendment of s 21 (Moratorium period)

Section 21(1), from ‘intent,’ to ‘following period—’—

omit, insert—

‘intent and the document describing the moratorium, the moratorium period for the notice of intent and document is the following period—’.

250 Amendment of s 22 (Application of moratorium)

Section 22, ‘notice of intent.’—

omit, insert—

‘notice of intent and the document describing the moratorium.’.

251 Amendment of s 31 (Minor amendments of wild river declaration)

- (1) Section 31, heading, ‘amendments’—

omit, insert—

‘and other particular amendments’.

- (2) Section 31(1)(b), after ‘substance’—

insert—

‘, including, for example, changing a reference to a renumbered provision of an Act and making a change merely to update a term to make it consistent with an Act’.

- (3) Section 31(1)(c)(iv) and (v)—

omit, insert—

[s 252]

- ‘(iv) a special floodplain management area;
- (v) a subartesian management area; or’.

(4) Section 31(1)—

insert—

‘(f) make—

- (i) a minor change to the existing boundary of a designated urban area in the wild river area; or
- (ii) another change to the existing boundary of a designated urban area in the wild river area, if the change is made merely to ensure the designated urban area is consistent with a town boundary shown on a planning scheme under the Planning Act relating to the wild river area.’

252 Amendment of s 39 (Copies of documents to be available for public inspection)

Section 39(1)(a), after ‘intent’—

insert—

‘, including any document describing the moratorium having effect for the notice’.

253 Amendment of s 40 (Report by Minister on wild river declarations)

Section 40(3), ‘the purpose of this Act’—

omit, insert—

‘the preservation of the natural values of rivers’.

254 Amendment of s 41 (Classification of wild river area into high preservation area and preservation area)

(1) Section 41, heading, after ‘river area’—

insert—

‘not in Lake Eyre Basin’.

(2) Section 41(1), ‘river area are included’—

omit, insert—

‘river area that is not in the Lake Eyre Basin are included’.

255 Insertion of new s 41A

After section 41—

insert—

‘41A Classification of wild river area in Lake Eyre Basin into high preservation area, preservation area and special floodplain management area

‘(1) The following parts of a wild river area in the Lake Eyre Basin are included in the high preservation area or special floodplain management area—

- (a) the wild river;
- (b) the major tributaries of the wild river;
- (c) any special features in the wild river area.

‘(2) Also, the high preservation area includes the area, of up to 1km either side of the wild river, its major tributaries and any special features, stated in the wild river declaration for the wild river area.

‘(3) The part of the wild river area that is not the high preservation area or special floodplain management area is the preservation area.

‘(4) A floodplain management area, a subartesian management area or a designated urban area may be over all or part of the high preservation area or the preservation area.

‘(5) A subartesian management area or a designated urban area may be over all or part of a special floodplain management area.

‘(6) A floodplain management area can not be over a special floodplain management area.’.

[s 256]

256 Amendment of s 42 (Effect of classification on particular development applications)

Section 42(1)(c), ‘in the preservation area’—
omit.

257 Amendment of schedule (Dictionary)

(1) Schedule, definition *publish*—
omit.

(2) Schedule—
insert—

‘**Lake Eyre Basin** means the area consisting of the catchment areas of the following—

- (a) Cooper Creek and its tributaries;
- (b) Georgina River and its tributaries;
- (c) Diamantina River and its tributaries.

publish, for a notice, means publish the notice—

- (a) in a newspaper circulating, or by announcement over a radio broadcasting, generally throughout—
 - (i) for a notice about a proposed wild river declaration—the proposed wild river area to which the declaration relates; or
 - (ii) for a notice about a proposed amendment or revocation of a wild river declaration—the wild river area to which the declaration relates; and
- (b) on the department’s website; and
- (c) if the Minister considers it appropriate in the circumstances—in a newspaper circulating generally throughout the State.

special floodplain management area means an area described in a wild river declaration for a part of the Lake Eyre Basin as a special floodplain management area.’

-
- (3) Schedule, definition *agricultural activities*, paragraph 1(b), before ‘gathering’—
insert—
‘irrigating.’
- (4) Schedule, definition *agricultural activities*, paragraph 2—
insert—
‘(ab) producing agricultural products in a market garden, if the maximum area of land on which the products are produced is not more than 4ha; or’.
- (5) Schedule, definition *agricultural activities*, paragraph 2—
insert—
‘(g) activities carried out for land rehabilitation or remediation; or
Examples—
 deep ripping, shallow ponding
(h) blade ploughing in an area that, under the *Vegetation Management Act 1999*, is a category X area or category C area on a PMAV.’

Part 17 Consequential amendments

258 Acts and regulations amended in sch 2

Schedule 2 amends the Acts and regulations it mentions.

Schedule 1 Other amendments of Energy Ombudsman Act 2006

section 3

- 1 Part 2, heading, ‘energy ombudsman’—**
omit, insert—
‘energy and water ombudsman’.
- 2 Sections 10, 11(1), 14, 16, 17, 18(3), 20, 22 to 40, 42(3), 44, 45(2), 46(3), 47(1)(a), 49(b), 51 to 55, 56 (other than subsection (4)), 57 to 60, 62, 63, 65(3), 66(1) and (2), 68, 69(2) and (3), 70, 72, 74 to 79, 81 and 82, ‘energy ombudsman’—**
omit, insert—
‘energy and water ombudsman’.
- 3 Sections 11(1) and (2), 13(1) and (2), 15, 16(a), 22(4), 49(a) and (c), 53(2), 62(a), 65(1) and (2)(b), 77(1)(b), 78 and 79(3), note, ‘energy ombudsman’s’—**
omit, insert—
‘energy and water ombudsman’s’.
- 4 Section 16, heading, ‘Energy ombudsman’—**
omit, insert—
‘Energy and water ombudsman’.
- 5 Section 28(4), ‘subsection (3)(b)’—**
omit, insert—
‘subsection (3)(c)’.

-
- 6 Section 31, heading, ‘energy entity’s’—**
omit, insert—
‘relevant entity’s’.
- 7 Part 7, heading, ‘energy ombudsman’—**
omit, insert—
‘energy and water ombudsman’.
- 8 Section 56(4), ‘energy ombudsman’—**
omit, insert—
‘acting energy and water ombudsman’.
- 9 Part 8, division 1, heading, ‘Energy ombudsman’—**
omit, insert—
‘Energy and water ombudsman’.
- 10 Section 59, ‘Energy Ombudsman’—**
omit, insert—
‘Energy and Water Ombudsman’.
- 11 Sections 61 and 72, ‘Energy ombudsman’—**
omit, insert—
‘Energy and water ombudsman’.
- 12 Part 8, division 2, heading, ‘energy ombudsman’—**
omit, insert—
‘energy and water ombudsman’.

- 13 Part 8, division 2, subdivision 1, heading, ‘Membership’—**
omit, insert—
‘Participation’.
- 14 Sections 64(1) to (3), 65(1) and (2), 66(1), (2) and (4), 67(1), (3) and (4), 68(1), (2) and (4), 69(6)(as renumbered), 70(3) and (4), 71(1), 72(1) and (2), 73 and 78(1)(a), ‘member’—**
omit, insert—
‘participant’.
- 15 Sections 64(4), 65(3), 66 and 67(1) and (4), 70(6) and 74(1), ‘membership’—**
omit, insert—
‘participation’.
- 16 Section 65(2)(a), ‘(the membership fee)’—**
omit, insert—
‘(the participation fee)’.
- 17 Section 66(2), ‘energy entity’—**
omit, insert—
‘utility entity’.
- 18 Section 68(1)(a), ‘energy entity’—**
omit, insert—
‘utility entity’.
- 19 Sections 65(2)(b) and 69(1) to (4), ‘member’s’—**
omit, insert—
‘participant’s’.

20 Section 70(2), 'members'—

omit, insert—

'participants'.

Schedule 2 Consequential amendments

sections 93 and 258

Electricity Act 1994

1 Sections 42(f), 55D(e) and 60(1)(c), ‘energy ombudsman’—

omit, insert—

‘energy and water ombudsman’.

2 Sections 42(f), 55D(e), 60(1)(c) and 133(3), ‘Energy Ombudsman Act 2006’—

omit, insert—

‘*Energy and Water Ombudsman Act 2006*’.

3 Insertion of new ch 14, pt 10

Chapter 14—

insert—

‘Part 10 Transitional provision for Water and Other Legislation Amendment Act 2010

‘327 Effect of regulation amendment

‘The amendment of the *Electricity Regulation 2006* by the *Water and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

-
- 4** **Schedule 1, part 3, item 40A to 40D, note, from ‘Energy’ to ‘19’—**
 omit, insert—
 ‘*Energy and Water Ombudsman Act 2006*, sections 18, 19 and 19A’.
- 5** **Schedule 1, part 3, item 48E to 48I, note, from ‘Energy’ to ‘19’—**
 omit, insert—
 ‘*Energy and Water Ombudsman Act 2006*, sections 18, 19 and 19A’.
- 6** **Schedule 5, definition *energy ombudsman*—**
 omit, insert—
 ‘*energy and water ombudsman* means the energy and water ombudsman under the *Energy and Water Ombudsman Act 2006*’.
- 7** **Schedule 5, definition *information notice*, paragraph (c)(ii), ‘*Energy Ombudsman Act 2006*’—**
 omit, insert—
 ‘*Energy and Water Ombudsman Act 2006*’.

Electricity Regulation 2006

- 1** **Section 88(1)(a)(iv), ‘energy ombudsman’—**
 omit, insert—
 ‘energy and water ombudsman’.

- 2 Section 88(1)(a)(iv), ‘Energy Ombudsman Act 2006’—**
omit, insert—
‘Energy and Water Ombudsman Act 2006’.

Energy Ombudsman Regulation 2007

- 1 Section 1, ‘Energy Ombudsman Regulation 2007’—**
omit, insert—
‘Energy and Water Ombudsman Regulation 2007’.

- 2 Section 3, ‘membership’—**
omit, insert—
‘participation’.

- 3 Section 3(1), after ‘customer’—**
insert—
‘(energy)’.

- 4 Sections 3(2) ‘energy ombudsman’—**
omit, insert—
‘energy and water ombudsman’.

- 5 Section 4, heading, ‘membership’—**
omit, insert—
‘participation’.

- 6 Part 3—**
omit.

Fair Work (Commonwealth Powers) and Other Provisions Act 2009

- 1 Schedule 1, item 7, from ‘and the’ to ‘Trust’—
omit.

Gas Supply Act 2003

- 1 Sections 50B and 174B, ‘energy ombudsman’—
omit, insert—
‘energy and water ombudsman’.
- 2 Sections 50B, 174B and 270ZK(1)(a)(ii) and (b), ‘*Energy Ombudsman Act 2006*’—
omit, insert—
‘*Energy and Water Ombudsman Act 2006*’.
- 3 Insertion of new ch 7, pt 3
Chapter 7—
insert—

‘Part 3 Transitional provision for Water and Other Legislation Amendment Act 2010

‘335 Effect of regulation amendment

‘The amendment of the *Gas Supply Regulation 2007* by the *Water and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’

4 Schedule 2, definition *energy ombudsman*—

omit, insert—

‘energy and water ombudsman means the energy and water ombudsman under the *Energy and Water Ombudsman Act 2006*.’.

5 Schedule 2, definition *information notice*, paragraph (c)(ii), ‘*Energy Ombudsman Act 2006*’—

omit, insert—

‘Energy and Water Ombudsman Act 2006’.

Gas Supply Regulation 2007

1 Section 44(2)(b)(iii), ‘energy ombudsman’—

omit, insert—

‘energy and water ombudsman’.

Public Service Act 2008

1 Schedule 1, entry for Office of the Energy Ombudsman under the *Energy Ombudsman Act 2006*—

omit, insert—

‘Office of the Energy and Water Ombudsman under the *Energy and Water Ombudsman Act 2006*

energy and water ombudsman under the *Energy and Water Ombudsman Act 2006*’.

Queensland Competition Authority Act 1997

1 Sections 187(3)(j) and 239(2)(h) and (3), ‘energy ombudsman’—

omit, insert—

‘energy and water ombudsman’.

2 Sections 187(3)(j) and 239(2)(h), ‘Energy Ombudsman Act 2006’—

omit, insert—

‘Energy and Water Ombudsman Act 2006’.

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