Waste Reduction and Recycling and Other Legislation Amendment Bill 2012

Explanatory Notes

General Outline

Short Title

The short title of the Bill is the *Waste Reduction and Recycling and Other Legislation Amendment Bill 2012.*

Policy objectives of the legislation and the reasons for them

The primary policy objectives of the Bill are to:

- Amend the *Waste Reduction and Recycling Act 2011* to:
    - Remove references to the waste levy and validate the repeal of the waste levy on 1 July 2012;
    - Remove the weighbridge requirement for smaller waste disposal sites and extend the installation timeframe for large sites;
    - Move provisions identifying waste disposal sites required to report data to a regulation to enable flexible arrangements to be developed in consultation with the waste industry;
    - Extend the timeframe by which local governments and state entities are required to prepare and report on waste reduction and recycling plans to allow the plans to be revised in the context of a review of the State's waste strategy;
    - Reduce the administrative burden on local governments, state entities, planning entities and reporting entities; and
- Amend the *Coastal Protection and Management Act 1995* to allow the creation and use of self-assessable codes for the purposes of the Integrated Development Assessment System (IDAS) and other minor amendments; and
- Amend the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* to introduce new transitional provisions and make minor drafting and administrative changes; and
- Make consequential amendments to these and other Acts as a result of the above amendments.

Achievement of policy objectives

Waste Reduction and Recycling Act 2011 (Waste Act) amendments

The Bill completes the repeal of the waste levy by removing provisions from the Waste Act that created the levy and provided for its operation.

The majority of relevant provisions are located in Chapter 3—Waste Levy. Provisions include sections which: impose the levy; identify levy exempt waste; create obligations for calculation and remittance of the levy; require volumetric surveys of waste disposal sites; provide for payment extensions and instalment plans; and allow for future review of the levy. The chapter also establishes a fund for the receipt and disbursement of levy revenue which will be removed once all revenue has been accounted for.

Some provisions, including levy evasions and requirements to keep records, will be retained for a transitional period. These are required in order to facilitate future levy compliance action if necessary.

Provisions in Chapter 3 also require the installation of weighbridges at waste disposal sites and the reporting of data by waste disposal site operators. These provisions supported the calculation and remittance of the levy but also support broader waste reform policy objectives.

Currently, all waste disposal sites within the levy zone are required to have a weighbridge by December 2013. Sites disposing of more than 10,000 tonnes of waste in a year are required to have the weighbridge by 1 December 2012; while sites disposing of between 5,000 and 10,000 tonnes of waste in a year are required to have a weighbridge by 1 December 2013.

Weighbridge infrastructure significantly contributes to improved, more accountable waste management practices at waste disposal sites and facilitates improved data collection and reporting to inform future planning by the waste sector and all levels of government.

This section will be amended to remove completely the requirement for sites under 10,000 tonnes to have a weighbridge. Sites over 10,000 tonnes will still be required to have a weighbridge but the timeframe will be extended until 1 December 2013.

The remaining provisions contained in Chapter 3 relate to data reporting. While the type and frequency of data was linked to remittance of the levy, waste data is necessary to inform a range of waste management policies.

In the absence of a levy, it is proposed the type of information required will be simplified and the frequency that the information is submitted will be determined by regulation.

Although reference to the levy zone, currently prescribed in regulation, will be removed, the amended provisions relating to weighbridges and data reporting will not apply to waste disposal sites outside the local government areas currently listed as forming the levy zone. The local government areas to which the provisions apply will still be provided in regulation.

Amendments are also being made to non-levy related provisions of the Waste Act. Local governments, state government departments and Government Owned Corporations are required to prepare waste reduction and recycling plans under Chapter 6 of the Waste Act. These plans are required by 1 December 2012. The plans are required to take account of any waste management strategy that may be in effect in Queensland. However, in order to better reflect government priorities, and in the absence of a waste levy, a review of the current strategy has commenced. It is anticipated that a new strategy will be in place by June 2014. Therefore, it is proposed to extend the timeframe for preparation of the plans to align with the remake of the strategy.

To reduce administrative burden, amendments will be made to remove the requirement for local governments and planning entities to provide a copy of their waste reduction and recycling plans to the chief executive, remove the requirement for state entities to publish information about their plans in their annual reports, reduce reporting requirements on small businesses handling less than 1000 tonnes of waste, and removing the requirement for waste disposal sites to use prescribed weight measurement criteria for small vehicle deliveries and when their weighbridge is out of operation.

The Bill also confirms that the levy was repealed as at 1 July 2012.

***Coastal Protection and Management Act 1995* amendments**

Referral triggers under the *Sustainable Planning Regulation 2009* establish roles for state government agencies in relation to development assessment. For state agencies, referral roles ensure critical information regarding a state interest is considered in determining a development application.

As part of the Government's regulatory reform agenda, EHP conducted a review of IDAS referral triggers within the agency, including the triggers for assessment against the *Coastal Protection and Management Act 1995*. The review identified appropriate methods of reducing the number of triggers for development applications.

A self-assessable code can be used in the IDAS process where development outcomes can be clearly articulated and understood through acceptable outcomes in the code, eliminating the need for an agency referral.

As a result of the review, a self-assessable code was recommended for activities undertaken by the Department of Transport and Main Roads, which includes tidal works associated with minor public marine development such as boat ramps. The code would allow for the streamlining of development assessment - saving time for both the applicant and assessment agency – while ensuring coastal processes are protected.

Self assessable codes for comparable activities could also be created for local government and public service providers in the future.

However, the *Coastal Protection and Management Act 1995* does not have a head of power to recognise self-assessable codes. The proposed amendments would create that head of power.

An amendment is needed to preserve the right to use and occupy State coastal land for certain types of development, including development that will in future be undertaken in accordance with a self-assessable code. Currently, section 123 of the *Coastal Protection and Management Act 1995* gives a person the right to occupy and use State tidal land in particular circumstances when carrying out tidal works in accordance with a development permit. Because a development permit would no longer be issued for activities carried out under a self-assessable code, this right needs to also encompass such activities.

In addition, the review also recommended that two subsections of one of the coastal triggers be merged to improve the clarity of the trigger. This does not require a substantial change but, rather, amendment of the definition of 'tidal works' to include reclamation of land. However, this triggers a further amendment of section 123 so that the right to occupy and use State land to carry out tidal works does not apply to tidal work that is reclaiming land. This is necessary because allocation of tenure for land that is to be reclaimed is addressed under the *Land Act 1994* prior to works being undertaken.

Alternative ways of achieving policy objectives

The objectives can only be achieved through legislative amendment.

In order to achieve the 1 July 2012 timeframe for the levy repeal, it required a staged approach.

The first stage involved amendment to the *Waste Reduction and Recycling Regulation 2011*. This amendment was gazetted on 22 June 2012 and provided for a nil levy rate on all types of waste. While the provisions imposing the levy remain in the *Waste Reduction and Recycling Act 2011*, a nil levy rate in the Regulation means that no new levy liabilities are created when levyable waste is delivered to a levyable waste disposal site from 1 July 2012.

The second stage of the levy repeal involves and amendment of the *Waste Reduction and Recycling Act 2011* to remove the provisions that impose and support the levy.

Estimated cost for government implementation

The Bill does not propose costs which cannot be met from existing budget allocations.

The costs of levy repeal are not expected to be significant; although a number of waste disposal site operators incurred expenditure in connection with the levy

commencement. Some local governments have sought reimbursement of those costs but compensation is not payable on account of changed government policy. It is expected that some sites will seek to recover costs with raised gate fees.

Consistency with fundamental legislative principles (FLPs)

This Bill has been examined for compliance with the fundamental legislative principles outlined in section 4 the *Legislative Standards Act 1992* and is considered to have sufficient regard to the rights and liberties of individuals and the institution of Parliament. Any issues identified have been addressed through the drafting of the Bill. Accordingly, this Bill is consistent with fundamental legislative principles.

Where fundamental legislative principles are raised by the content of a provision, but not breached, these issues are addressed in the Notes of Provisions for that provision.

Consultation

Waste Reduction and Recycling Act 2011 amendments

A consultation meeting on the broad thrust of proposed amendments to the *Waste Reduction and Recycling Act 2011* was held on 14 June 2012 with the following representative bodies: Waste Contractors & Recyclers Association of Queensland (WCRAQ); Australian Landfill Owners Association (ALOA); Local Government Association of Queensland (LGAQ) and the Australian Council of Recyclers (ACOR). The Waste Management Association of Australia (WMAA) and the Council of Mayors South East Queensland (CoMSEQ) were also consulted.

There was a general consensus around the proposed approach.

However, a point of difference between the organisations consulted related to the issue of weighbridge requirements. One industry body, WCRAQ, supported maintaining all current requirements while local government representatives were only supportive of requiring weighbridges for sites over 10,000 tonnes in the absence of further infrastructure funding. Most sites requiring weighbridges are local government sites.

It was originally proposed to retain reference to a 'price signal' in the Waste Act as one possible option for achieving its objectives. Related to this, was a proposal to retain reference to the Waste and Environment Fund and a business plan for the expenditure of any funds received through a price signal. This approach was strongly supported by ACOR. However, it was resisted by local government and, in the absence of levy or other known source of funds, it is considered the better course of action is removal of the provisions.

There was general support for keeping data reporting for waste disposal sites located within the current levy zone, in addition to annual reporting requirements, but views differed on the frequency of such returns. Further consultation with stakeholders will inform best reporting timeframes which it is proposed to prescribe by regulation.

Coastal Protection and Management Act 1995 amendments

Targeted consultation was undertaken on the recommendations with departmental development assessment and policy officers and managers, as well as a number of external stakeholders including the Local Government Association of Queensland, local government representatives, and developers. The proposals were supported by key stakeholders.

Results of Consultation

The results of consultation are summarised below.

- **Community**

Consultation on the amendments was targeted and was limited to local government and industry directly impacted by the amendments.

- **Local Government**

No concerns or comments were raised about the amendments contained in the Bill which were consulted on.

- **Industry**

No concerns or comments were raised about the amendments contained in this Bill which were consulted on.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state.

Notes on Provisions

Part 1 Preliminary

Clause 1 Short title

This clause states that the Act should be cited as the *Waste Reduction and Recycling and Other Legislation Amendment Act 2012*.

Part 2 Amendment of Coastal Protection and Management Act 1995

Clause 2 Act amended

This clause states that this part amends the *Coastal Protection and Management Act 1995*.

Clause 3 Amendment of s 123 (Right to occupy and use land on which particular tidal works were, or are to be, carried out)

This clause amends section 123 of the *Coastal Protection and Management Act 1995* which provides for the right to occupy and use State land where a development permit has been granted for tidal works.

Under the current section, if a self-assessable code is developed for the purposes of the *Sustainable Planning Act 2009*, then the operator will not be required to obtain a development permit. Therefore, this amendment extends that right to works carried out in compliance with the code.

The allocation of tenure for reclamation of land is addressed under the *Land Act 1994* prior to any works being undertaken. Clause 5 amends the definition of 'tidal works' to include reclamation of land. Therefore a further amendment clarifies that, for section 123, the right to occupy and use State land to carry out tidal works does not apply to tidal work that is reclamation of land.

Clause 4 Amendment of s 167 (Regulation-making power)

This clause amends section 167 of the *Coastal Protection and Management Act 1995* which gives the Governor in Council the power to make regulations under the Act for a number of purposes. This amendment inserts the power to make a regulation which declares a document to be a code for IDAS under the *Sustainable Planning Act 2009*.

In order to reduce unnecessary concurrence agency referrals, the Department of Environment and Heritage Protection intends to create self-assessable codes for particular types of development for the purposes of the Integrated Development Assessment System (IDAS) under the *Sustainable Planning Act 2009*. The first code to be developed will be a self-assessable code for low risk activities undertaken by the Department of Transport and Main Roads. This may be expanded out to other areas (e.g. local governments and public service providers) in the future. A cost benefit analysis would be undertaken before declaring self-assessable codes for other activities.

However, in order for a self-assessable code to be created, there needs to be a head of power in the Act for a regulation to declare a statutory instrument or other document

to be a code for IDAS. This section is similar to section 22(2) of the *Fisheries Act 1994*.

Clause 5 Amendment of schedule (Dictionary)

This clause amends the Dictionary of the *Coastal Protection and Management Act 1995* to change the definition of 'tidal works' to include reclamation and to insert a definition of 'reclamation' of land under tidal water.

The definition of 'tidal works' to include reclamation is necessary as part of the review of the *Sustainable Planning Regulation 2009* triggers for what is assessable development. Two sections in the coastal trigger (tidal works or work within a coastal management district) will be merged to improve clarity of the trigger.

The definition of 'reclamation' of land under tidal water is supported by the terms 'high-water mark' and 'tidal water' that are already defined under the Act:

- 'high-water mark' means the ordinary high-water mark at spring tides.
- 'tidal water' means—
  (a) the sea and any part of a harbour or watercourse ordinarily within the ebb and flow of the tide at spring tides; or
  (b) the water downstream from a downstream limit declared under the *Water Act 2000*.

Part 3 Amendment of Environmental Protection Act 1994

Clause 6 Act amended

This clause states that this part amends the *Environmental Protection Act 1994*.

Clause 7 Amendment of s 13 (Waste)

This clause amends section 13 of the *Environmental Protection Act 1994* which defines the term 'waste' for the purposes of the Act. This amendment removes reference to the term 'levyable waste disposal site'.

The definition of 'waste' was amended with the introduction of the waste levy to clarify that a resource approved under chapter 8 of the Act, when delivered to a levyable waste disposal site, becomes waste. This was to ensure that the waste levy applied to the waste and to minimise the potential for levy evasion.

With the repeal of the waste levy, subsections 5 and 6 required consequential amendment to remove the definition of 'levyable waste disposal site' and to allow a resource approved under chapter 8 to be used for beneficial purposes on a waste disposal site, while still providing for the resource to become waste if it is disposed of, rather than delivered to, a waste disposal site.

Part 4 Amendment of Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012

Clause 8 Act amended

This clause states that this part amends the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

Clause 9 Insertion of new s 4A

This clause inserts a new section 4A into the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* to amend section 39 of the *Environmental Protection Act 1994* (Other definitions) which defines terms for the purposes of chapter 3. The amendment omits the definition of 'business days' for chapter 3 of the *Environmental Protection Act 1994* since this definition is now in the Dictionary to the *Environmental Protection Act 1994*.

Clause 10 Amendment of s 8 (Insertion of new chs 5 and 5A)

Subsection (1) of this clause amends section 110 of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which defines the term 'mining activity'. This amendment is necessary because the definition of "authorised activity" in the *Mineral Resources Act 1989* refers to an authorised activity "for a mining tenement", which is also defined in the Dictionary to the *Mineral Resources Act 1989*. Subsection (b) comes from the definition of "mining tenure" in the Dictionary to the *Environmental Protection Act 1994* as amended by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* since it is broader than the definition of "mining tenement".

Subsection (2) of this clause amends section 112 of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which defines other key terms for chapter 5 of the Act. This amendment omits the definition of "eligibility criteria". This definition is

redefined in subsection (3) to refer to the sections which the eligibility criteria are made under.

Subsection (3) of this clause also amends section 112 of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* to insert definitions of "application stage", "decision stage", "information stage" and "notification stage". These terms were already being used in the Bill, but had not been defined.

Subsection (4) of this clause amends section 116 of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which specifies who may apply for an environmental authority. This amendment inserts a new subsection (2) into the section. The new subsection (2) points out that an application may be made jointly by two or more persons.

Subsection (5) of this clause amends section 206 of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which requires the environmental authority to include a condition prohibiting the use of restricted stimulation fluids (BTEX). Section 206 was intended to replace section 312W of the pre-amendment *Environmental Protection Act 1994* and not change the requirements which were in place. This is evident from the explanatory notes for the section.

However, the drafting of section 206 caused an unintended consequence by changing the wording of the requirement from "an environmental authority is taken to include a condition" to "the administering authority must impose a condition". This changed the intent of the section from a deemed condition, to a condition to be inserted into the environmental authority.

This amendment reverses that unintended consequence.

Subsection (6) of this clause amends section 243 of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* and corrects a problem with circular definitions for "amalgamated corporate authority", "amalgamated local government authority" and "amalgamated project authority".

Subsection (7) of this clause amends section 245 (Who may apply) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which specifies who can apply to amalgamate their environmental authorities. This amendment retains the existing section 245 as subsection (1) and inserts a new subsection (2) which specifies that, if there is more than one holder of an environmental authority, then all of the holders must be in common in order to amalgamate the environmental authorities (e.g. if company A owns one authority on its own, and owns another authority as joint holders with company B, then the environmental authorities cannot be amalgamated).

Subsection (8) of this clause amends section 266 (Deciding surrender application) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which sets out when the decision on the surrender application must be made by. This amendment corrects the drafting to clarify that the timeframe to end is in relation to the surrender application and the decision timeframe depends on which of the surrender processes ends first.

Subsections (9) and (10) of this clause insert a new part that allows the holder of an environmental authority to apply to suspend an environmental authority, provided there are no ongoing management issues. This part is necessary to address a concern that results from the conversion of registration certificates to environmental authorities. Under the unamended legislation, the holder of the registration certificate may choose to surrender a registration certificate and then reactivate the authorisation to undertake the activity at a later date by applying for a new registration certificate. This may occur, for example, where there is a temporary downturn in market conditions and the operator wishes to cease production until there is a recovery in market prices.

The conversion of the registration certificate to an environmental authority by the amending act meant that the former holder of a registration certificate would potentially need to apply for a new environmental authority rather than reactivate the previous authority (as currently occurs). The inserted part addresses this by allowing a holder to apply to suspend the environmental authority and to later apply to terminate the suspension.

Part 11A Suspension of environmental authorities by application

Division 1 Preliminary

Section 284A Who may apply

This section allows any holder of an environmental authority to apply to suspend the environmental authority.

Division 2 Suspension applications

Section 284B Requirements for suspension application

This section states the requirement for the suspension application. This includes nominating the suspension period, which must run for at least one year, and must be effective from the next anniversary date. The suspension period cannot be for more than 3 years. The limit on the period of the suspension has been set to minimise the potential for an environmental authority being reactivated for an activity that is no

longer a lawful use of the land due to the concept of when the use has been abandoned under planning law.

Division 3 Deciding suspension applications

Section 284C Deciding suspension application

This section states that the suspension application must be decided within 20 business days after the administering authority receives the application.

Section 284D Criteria for deciding suspension application

This section specifies the criteria for the decision. In deciding the application, the administering authority must consider the degree of environmental harm that has or might be expected to occur, the likelihood of action being required to rehabilitate, or restore and protect the environment while the environmental authority is suspended (for example, if containment is not maintained), and the environmental record of the holder.

Section 284E Restrictions on giving approval

This section restricts the approval so that the administering authority may only approve the application to suspend an environmental authority if the environmental authority is not subject to conditions requiring rehabilitation. This is because rehabilitation must be undertaken before an environmental authority is surrendered, and this process is not intended to allow an environmental authority holder to escape the more stringent requirements of a surrender application.

Section 284F Steps after deciding suspension application

This section sets out the steps that the administering authority must undertake to give effect to the decision. This includes giving the applicant an information notice if the application is refused. This then enlivens the review and appeal provisions of the *Environmental Protection Act 1994*.

Division 4 Termination of suspension

Section 284G Termination of suspension

This section provides the process for terminating the suspension. Once a suspension has been terminated, the holder of the environmental authority must comply with the conditions of the environmental authority.

Subsection (11) of this clause amends section 318K (Cancellation or suspension of registration) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which specifies the grounds for cancellation or suspension of registration. This amendment corrects terminology to be used consistently. Since an entity may be

registered, it is not correct to refer to the registered suitable operator as "not a suitable person", but rather than the applicant is not suitable.

Subsection (12) of this clause amends section 318R (Investigation of applicant suitability or disqualifying events) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which states how an applicant may be investigated for suitability or disqualifying events. This amendment corrects terminology, since the applicant is an entity, not just a person.

Clause 11 Amendment of s 9 (Replacement of ss 321-326)

Subsection (1) of this clause amends section 326E (Declarations to accompany report) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which specifies the declarations that must accompany an environmental report. This amendment defines 'recipient'. The recipient may be the recipient of an audit notice under section 323 or the recipient of an investigation notice under section 326B. This amendment clarifies which type of recipient the section applies to.

Subsection (2) of this clause amends section 326F (Administering authority may request further information) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which gives the administering authority the power to request further information. This amendment defines 'recipient'. The recipient in these provisions may be the recipient of an audit notice under section 323 or the recipient of an investigation notice under section 326B. This amendment clarifies that this section only applies to the recipient of an investigation notice.

Subsection (3) of this clause amends section 326G (Decision about environmental report) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which specifies the decisions an administering authority can make about an environmental report. This amendment defines 'recipient'. The recipient in these provisions may be the recipient of an audit notice under section 323 or the recipient of an investigation notice under section 326B. This amendment clarifies which type of recipient is being referred to.

Subsection (4) of this clause amends section 326H (Action following acceptance of report) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which states what the administering authority must do following acceptance of an environmental report. This amendment defines 'recipient'. The recipient in these provisions may be the recipient of an audit notice under section 323 or the recipient of an investigation notice under section 326B. This amendment clarifies that, in this section, both types of recipient are relevant.

Subsection (5) of this clause amends section 326I (Action following refusal of report) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which states what the administering authority must do following refusal of an environmental report. This amendment defines 'recipient'. The recipient in these provisions may be the recipient of an audit notice under section 323 or the recipient of an investigation notice under section 326B. This amendment clarifies that this section only applies to the recipient of an investigation notice.

Clause 12 Replacement of s 31 (Omission of ss426A and 427)

This clause inserts a new section 427 into the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which provides for an offence for operating a transferred environmental authority without being a registered suitable operator.

One of the initiatives of the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* was to remove the need for duplicate transfers for resource activities, since an application must be made to approve the transfer of the tenure under the relevant resources legislation.

However, one of the initiatives of the *Mines Legislation (Streamlining) Amendment Act 2012* is to remove the need to assess certain dealings, including transfers by death, transfers by operation of law, and where the name of the company has changed. These are referred to in the *Mines Legislation (Streamlining) Amendment Act 2012* as "non-assessable transfers".

In order for both streamlining initiatives to work effectively, this has created the need for an offence provision so that the holder of tenure (and therefore the environmental authority) who has obtained the tenure under a non-assessable transfer cannot carry out the activities under the environmental authority until the holder has been assessed and registered as a suitable operator.

There will be a simple, online form for the holder to complete in order to be assessed and registered as a suitable operator if the beneficiary of the transfer wishes to operate the business.

Since the tenure is a valuable asset, which can be sold or further transferred, while the environmental authority is an operating licence, this allows the beneficiary of the non-assessable transfer (e.g. the beneficiary of a will) to sell the tenure, without every operating the business.

Clause 13 Amendment of s 47 (Replacement of s 540 and 541)

This clause amends section 540 (Registers to be kept by administering authority) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which specifies the registers to be kept by the administering authority. This amendment corrects the drafting to correctly refer to the register of suitable operators. The sections about the register of suitable operators do not refer to "registered suitable operators", but "suitable operators", so the word "register" is being deleted.

Clause 14 Amendment of s 58 (Insertion of new ch 12, pts 3-3A)

Subsection (1) of this clause amends section 574 (Term of approval) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which specifies the term of an approved auditor's approval. This amendment identifies that the term of the auditor's approval ends if the auditor's approval is cancelled or suspended under section 574G.

Subsection (2) of this clause amends section 574A (Who may perform auditor's functions) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which specifies who may perform auditor's functions. This amendment clarifies that payment for performing the auditor's function is not a financial interest which would prohibit the auditor from performing the function.

Clause 15 Amendment of s 60 (Insertion of new ch 13, pt 18)

Subsections (1) and (2) of this clause amend section 676 (Definitions for pt 18) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which contains definitions for the purposes of the transitional provisions for this Act. Subsection (1) deletes a reference which is no longer needed. Subsection (2) inserts definitions which are being deleted from the Dictionary to the *Environmental Protection Act 1994* but are still required for the transitional provisions. It also inserts definitions from the new provisions inserted by this Bill, such as a new definition of 'non-transitional ERA' for the purposes of the transitional provisions. This definition is consequential to the amendments in subsection (4).

Subsection (3) of this clause inserts new sections 676A to 676D into the *Environmental Protection Act 1994* to allow for a regulation to prescribe some ERAs to be non-transitional ERAs. A review of the ERAs currently prescribed in the

Environmental Protection Regulation 2008 has shown that the deletion of some of these ERAs (i.e. the non-transitional ERAs) could contribute to the reduction of green tape for business.

In the event that the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* commences prior to the deletion of these non-transitional ERAs, these sections are necessary to ensure that, in this instance, the development conditions of the relevant development permits do not transition to conditions of an environmental authority. Instead, these particular ERAs will continue to be subject to a registration certificate and a development permit and the provisions of the unamended Act will apply in regard to dealings with these approvals.

Subdivision 1 Non-transitional ERAs

Section 676A Environmentally relevant activity may be prescribed as non-transitional ERA

This section provides that these non-transitional ERAs may be prescribed by the regulation. The intention is that the existing schedule 2 of the *Environmental Protection Regulation 2008* will be split into two schedules – one for those prescribed ERAs which will not be deleted, and one for those prescribed ERAs which will be deleted (the non-transitional ERAs). Which ERAs will be deleted is currently the subject of consultation on a Regulatory Assessment Statement and will not be known until the government makes its decision, taking into account the submissions received as part of that consultation.

Subdivision 2 Chapter 4 activities that are not transitioned

Section 676B Application of sdiv 2

This section states that subdivision 2 of part 18, division 2 applies to the non-transitional ERAs.

Section 676C Continuing effect of unamended Act for non-transitional ERA

This section states that the unamended Act (i.e. the Act in force as if the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* had not commenced) continues to apply to these non-transitional ERAs. It will continue to apply until the non-transitional ERAs are deleted from the *Environmental Protection Regulation 2008*, so the dates will be prescribed by the regulation to ensure that they align. However, the offence of failing to obtain a registration certificate before carrying out the activity will not apply if an operator starts carrying out the activity after the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* commences. This is because these activities are being deleted and it would be an unnecessary burden on operators

to require a registration certificate when the activity will no longer be licensed. These operators would be required to comply with the general environmental duty.

Subdivision 3 Chapter 4 activities that are transitioned

Section 676D Application of sdiv 3

This section states that the new subdivision 3 of part 18, division 2 does not apply to the non-transitional ERAs. This ensures that only those prescribed ERAs which are not being deleted will transition to environmental authorities.

Subsection (4) of this clause amends section 684 (Existing progressive certification) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which transitions existing progressive certification to progressive certification under the Act as amended. This amendment inserts a definition which is being deleted from the Dictionary to the *Environmental Protection Act 1994* but is still required for the transitional provision.

Subsection (5) of this clause inserts new transitional provisions to allow a person who surrendered their registration certificate because they had suspended (but not abandoned) their operations to apply for a suspended environmental authority.

Division 5A Suspended activities

Section 698A Application of div 5A

This section specifies who can apply for a suspended environmental authority. In essence, this is a person who surrendered their registration certificate for a prescribed ERA (previously referred to as a Chapter 4 activity). If the registration certificate had not been surrendered, then the registration certificate would have been part of what is converted into an environmental authority under section 677 (for assessable development) or section 680 (for self-assessable development). However, since the registration certificate was surrendered, sections 677 and 680 do not apply.

Section 698B Application to convert surrender of registration certificate to suspension of environmental authority

This section gives the former holder of the registration certificate two years to apply for a suspended environmental authority. This is known as a conversion application. This timeframe is reasonable since an environmental authority cannot be suspended by application for longer than 3 years. The limit on the period of the suspension has been set to minimise the potential for an environmental authority being reactivated for an activity that is no longer a lawful use of the land due to the concept of when the use has been abandoned under planning law.

Section 698C Application of ch 5, pt 11A, divs 2 to 4 to conversion application

This section has the effect of applying the process for a suspension application to the conversion application. This means that the same criteria and decision-making steps apply to the conversion application.

Section 698D Effect of conversion

This section has the effect of transitioning the surrendered registration certificate and associate documents into a suspended environmental authority if the application is approved. This section mirrors the relevant parts of section 677 (for assessable development) and section 680 (for self-assessable development). The holder of the suspended environmental authority is also automatically added to the register of suitable operators.

Subsections (6) and (7) of this clause amend section 701 (Conditions about environmental management plans for particular environmental authorities) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which transitions environmental authorities with conditions about environmental management plans to remove references to the environmental management plans. This amendment inserts definitions which are being deleted from the Dictionary to the *Environmental Protection Act 1994* but are still required for the transitional provisions.

Subsection (8) of this clause amends section 705 (Particular persons taken to be registered suitable operator) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which transitions the holders of environmental authorities and registration certificates to registered suitable operators. This amendment ensures that the operators of non-transitional ERAs do not transition as they will continue to hold development permits under subsection (4) of this clause.

Subsection (9) of this clause inserts two new transitional provisions (sections 707A and 707B) so that existing codes of environmental compliance will transition to standard conditions, or standard conditions plus eligibility criteria, and eligibility criteria can continue to be prescribed under the regulation after commencement of the Bill.

Section 20A of the *Acts Interpretation Act 1954* saves the effect of a provision after its expiry. In this context, it means that the eligibility criteria prescribed for a mining activity under the new section 712 will be effective after the expiry of this section.

Subsection (10) of this clause amends section 710 (References to former terms) of the *Environmental Protection Act 1994* as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* which transitions former terminology to the new terminology under the Amendment Act. This amendment clarifies that the former terms are terms of the unamended Act (i.e. the *Environmental Protection Act 1994* prior to commencement of the Amendment Act).

Clause 16 Amendment of s 61 (Amendment of sch 2 (Original decisions))

This clause amends schedule 2 of the *Environmental Protection Act 1994* to include the decision made under section 284C, if the decision is to refuse the application. This ensures that the decision is subject to the review and appeal provisions of the *Environmental Protection Act 1994*.

Clause 17 Amendment of s 62 (Amendment of sch 4 (Dictionary))

This clause amends the Dictionary of the *Environmental Protection Act 1994* as amended by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*. These amendments delete, replace, amend and insert definitions as a result of the changes in the Bill. This amendment:

- inserts a definition of "application stage" into the Dictionary as a cross reference to section 112;
- inserts a definition of "conversion application" into the Dictionary as a cross reference to sections 695 and 698B;
- inserts a definition of "decision stage" into the Dictionary as a cross reference to section 112;
- inserts a definition of "information stage" into the Dictionary as a cross reference to section 112;
- inserts a definition of "notification stage" into the Dictionary as a cross reference to section 112;
- corrects a cross-reference in the definition of "plan of operations";
- inserts a definition of "progressive rehabilitation report" into the Dictionary as a cross reference to section 318ZF;
- replaces the definition of "standard conditions" to refer to the standard conditions that are made under the usual process in section 318D, or are deemed to be standard conditions through the transitional provision in section 707A; and
- inserts a definition of "suspension application" as a consequence to the amendments in clause 15.

Part 5 Amendment of Waste Reduction and Recycling Act 2011

Clause 18 Act amended

This clause states that this part amends the *Waste Reduction and Recycling Act 2011*.

Clause 19 Amendment of s 5 (Approach to achieving Act's objects)

This clause amends section 5 of the *Waste Reduction and Recycling Act 2011* which specifies the approaches to achieving the objects of the Act. This amendment deletes two of the approaches to achieving the Act's objects that relate to the waste levy which is being repealed.

The two approaches that relate to the waste levy are: s5(b) preparation of a business plan (which was the document that outlined levy-funded programs); and s5(c) price signalling through a levy. These approaches are no longer relevant in the absence of a waste levy.

Clause 20 Omission of ch 2, pt 2 (Business plan for State's waste management strategy)

This clause omits sections 23 and 24 of the *Waste Reduction and Recycling Act 2011* which requires the State prepare and report on a business plan for its waste management strategy. These sections are no longer required because the business plan requirement has less relevance due to the loss of levy revenue following the levy repeal. Although there may be advantages in having a plan for implementing the waste management strategy, such a plan does not need to be prescribed in legislation.

Clause 21 Replacement, renumbering and relocation of s 27 (Meaning of levyable waste disposal site)

This clause replaces and relocates section 27 of the *Waste Reduction and Recycling Act 2011* which defines the term 'levyable waste disposal site'. This definition is being amended because the waste levy is being repealed and the term, in its current form, is no longer relevant.

The amendment redefines the term to a 'waste disposal site' which needs to be retained as other obligations imposed on levyable waste disposal sites (such as those outlined in the dot points below) will instead link to the amended term 'waste disposal site' and remain operable:

- ss43 and 44: weighbridge requirement provisions
- s52: submission of waste data returns
- s53: requirement to keep particular documents

The definition of waste disposal site is not limited to sites within the current 'levy zone". Although many enduring requirements, as outlined above, will only apply to waste disposal sites in certain locations (based on the current levy zone) the Act does not need to make this distinction in this section. In future, the term may apply more

broadly other actions provided for under the Act, such as waste disposal bans and priority product statements.

Clause 22 Omission of ch 3, pt 1 (Preliminary)

This clause omits sections 25, 26 and 27 of the *Waste Reduction and Recycling Act 2011* which provides the head of power to impose a levy on waste and definitions relevant to the implementation of the levy.

Clause 23 Omission of ch 3, pts 2 and 3

This clause omits sections 28 to 40 of the *Waste Reduction and Recycling Act 2011* which identifies exempt waste and specifies how the waste levy operates. These sections are being removed because these provisions are fundamentally linked to the levy and are no longer required due to the levy being repealed.

Clause 24 Omission of ch 3, pt 4, div 1 (Obligations of person delivering waste)

This clause omits section 41 of the *Waste Reduction and Recycling Act 2011* which requires a person delivering waste to a levyable waste disposal site to give information, as required by the operator of the site, to enable to operator to accurately calculate their levy liability. These sections are being removed because these provisions are fundamentally linked to the levy and are no longer required due to the levy being repealed.

Clause 25 Replacement of ss 42-43

This clause omits section 42 and amends section 43 of the *Waste Reduction and Recycling Act 2011* which specifies weighbridge requirements.

Section 42 relates to remitting the waste levy to the State and is no longer required due to the levy being repealed.

Section 43 requires weighbridges to be installed progressively at waste disposal sites, depending on the amount of waste disposed of at the facility. This ensures that waste is weighed so that levy liability can be calculated accurately. Weighbridges inform pricing structures and provide more accountability for consumers and also enable improved data collection and reporting that informs future planning by the waste sector and all levels of government.

This section is being amended so that the requirement for installation of weighbridges will be continue, but will be limited to sites disposing of more than 10,000 tonnes of

waste in a year. The sites requiring weighbridges will also be prescribed in regulation. Initially these will be based on the local government areas currently listed in schedule 5 (Levy zones) of the Regulation.

The timeframe for sites disposing of more than 10,000 tonnes of waste to comply with the weighbridge requirement will be extended by 12 months to December 2013.

The requirements for installation and certification of weighbridges (s.43(4) and (5)) are also being removed as the Act need not regulate weighbridge infrastructure in this regard.

The requirement for the operator of a waste disposal site to notify the chief executive when a weighbridge is out of operation has also been simplified. Rather than being required thorough a separate process under this section, the information will now be provided to the chief executive on the approved form with other reporting information required under section 52.

The maximum penalty for contravention of the weighbridge requirements is also being removed and the chief executive will rely on the general compliance regime in the Chapter 11 – entailing 'show cause' and 'compliance' notices to ensure compliance.

Clause 26 Amendment of s 44 (Measurement of waste by weighbridge)

This clause amends section 44 of *Waste Reduction and Recycling Act 2011* which sets out the things that must be measured and recorded when a weighbridge is required to be installed.

This section is being retained to ensure tonnages data is recorded and reported accurately. However, it will be amended to remove all references to the levy and to clarify that the requirements only apply to waste disposal sites that are required to have a weighbridge under section 43 and that are prescribed in regulation.

The section is also being amended to remove the requirement for waste to be measured using the weight measurement criteria prescribed in the regulation when the weighbridge is not in operation or when waste is delivered in vehicles that have a Gross Combination Mass (GCM) or Gross Vehicle Mass (GVM) of less than 4.5t. This will remove unnecessary administrative requirements that would apply when the weighbridge was not in operation and when waste is delivered in small vehicles. It will be at the discretion of each operator to determine for the purposes of their reporting how their waste will be measured in these instances.

Clause 27 Omission of ss 45-51

This clause omits sections 45 to 51 of the *Waste Reduction and Recycling Act 2011* which outlines obligations in relation to measuring waste, electronic monitoring and volumetric surveys which relate to waste levy calculation and compliance matters.

Section 45 is being removed to remove the requirement for waste to be measured using the weight measurement criteria (prescribed in the regulation) when a weighbridge is not yet required to be installed at a site. It will be at the discretion of each operator to determine for the purposes of their reporting how their waste will be measured in this circumstance.

Sections 46 to 51 are being removed because they are fundamentally linked to the levy and are no longer required due to the levy being repealed.

Clause 28 Replacement of s 52 (Submission of waste data returns)

This clause amends section 52 of the *Waste Reduction and Recycling Act 2011* which provides for the submission of waste data returns. The amendments remove all references to the levy and make other changes in respect of the submission of waste data returns.

While significant changes to these requirements are appropriate to reflect the levy repeal, data on waste tonnages and types is also necessary to inform the State's waste strategy and policies. This data is essential to assess landfill and recycling trends in Queensland so that government (state and local) can respond to waste management challenges.

The amendments to this section limit the requirement to submit data returns to sites identified by the regulation. The frequency of reporting through the submission of waste data returns will also be prescribed in the Regulation. Further consultation with the waste industry and local governments will inform these matters for inclusion in the Regulation.

The information that may be included in an approved form for a waste data return will be reduced to information about the operation of the weighbridge as well as the types and amounts of waste: delivered to the site; disposed of to landfill at the site; or exported from the site.

Clause 29 Amendment of s 53 (Requirement for operator of levyable waste disposal site to keep particular documents)

This clause amends section 53 of the *Waste Reduction and Recycling Act 2011* which imposes requirements on some operators to keep records.

In the absence of a levy, the requirement to keep copies of waste data returns and associated documents used in the preparation of returns will be maintained but reduced to 12 months. This section is amended to:

- remove levy-related references;
- Remove subsection (b)(iii) given that small sites will no longer be required to report under section 52.
- Remove subsection (c) as it refers to a claim for a resource recovery deduction which is no longer relevant due to the repeal of the levy.

A transitional provision will be provided to ensure that the requirement to keep records for 5 years continues to apply to a person that was the operator of a levyable waste disposal site before the levy was repealed.

Clause 30 Omission of s 54 (Waste levy evasion)

This clause omits sections 54 of the *Waste Reduction and Recycling Act 2011* which provides an offence for levy evasion and is no longer required due to the levy being repealed. A transitional provision will be provided to ensure that records in relation to the period the levy was in place continue to be kept until 1 July 2018 for possible compliance and auditing purposes.

Clause 31 Omission of ch 3, pt 4, div 3 and pts 5 to 7

This clause omits sections 55 to 73 of the *Waste Reduction and Recycling Act 2011* which outline levy payment options, provide arrangements for resource recovery areas, the waste and environment fund and reviewing the efficacy of the waste levy which are no longer required due to the repeal of the levy. Transitional provisions will be provided to ensure that records in relation to the period the levy was in place continue to be kept for possible compliance and auditing purposes.

Clause 32 Amendment of s 123 (Local government's waste reduction and recycling plan obligation)

This clause amends section 123 of *Waste Reduction and Recycling Act 2011* which obliges local governments to prepare waste reduction and recycling plans.

Under section 300, a transitional provision provides for the recognition of local government waste reduction and recycling plans that were in force under repealed provisions of the *Environmental Protection (Waste Management) Regulation 2000*, until 1 December 2012.

Section 123 requires local governments to have a new plan by 1 December 2012. However, new plans need to have regard to how the goals and targets of Queensland's Waste Reduction and Recycling Strategy 2010-2020, which are likely to change as a result of a review of the Strategy which is underway following the repeal of the waste levy.

To ensure any revised targets and goals of the new waste strategy can be considered in developing the new plans, this section is being amended to extend the timeframe by which a new plan must be prepared to a day prescribed under a regulation.

Clause 33 Omission of s 129 (Copy of plan or amendment to be given to chief executive)

This clause omits sections 54 of the *Waste Reduction and Recycling Act 2011* which requires a local government to give a copy of their waste reduction and recycling plan, or amended plan, to the chief executive. This section is no longer considered necessary because the chief executive is not required to review or assess the plans and local governments are required under section 130 of the Act to ensure that an up-to-date version is publically available for inspection and purchase. This reduces administrative requirements and the chief executive will still be able to obtain a copy of the plan by other means if required.

Clause 34 Amendment of s 132 (What is a State entity and who is its chief executive)

This clause amends the definition of State entity in section 132 of the *Waste Reduction and Recycling Act 2011* so that a State entity no longer includes a government owned corporation. This removes the requirements for government owned corporations to prepare waste reduction and recycling plans, which is consistent with the approach taken for other commercial entities.

Clause 35 Amendment of s 133 (State entity's waste reduction and recycling plan obligation)

This clause amends section 133 of *Waste Reduction and Recycling Act 2011* which obliges State entities to prepare waste reduction and recycling plans.

Under section 300, a transitional provision provides for the recognition of state government waste reduction and recycling plans that were in force under repealed provisions of the *Environmental Protection (Waste Management) Regulation 2000*, until 1 December 2012.

Section 133 requires state entities (which now include government corporations) to have a new plan by 1 December 2012. However, new plans need to have regard to how the goals and targets of Queensland's Waste Reduction and Recycling Strategy 2010-2020, which are likely to change as a result of a review of the Strategy which is underway following the repeal of the waste levy.

To ensure any revised targets and goals of the new waste strategy can be considered in developing the new plans, this section is being amended to extend the timeframe by which a new plan must be prepared to a day prescribed under a regulation.

Clause 36 Amendment of s 141 (Planning entity's waste reduction and recycling plan obligation)

This clause amends section 141 of *Waste Reduction and Recycling Act 2011* which obliges planning entities to prepare waste reduction and recycling plans.

To ensure any revised targets and goals of the new waste strategy can be considered in developing the new plans, this section is being amended to extend the timeframe by which a new plan must be prepared to a day prescribed under a regulation.

Clause 37 Omission of s 146 (Requirement to give copy of adopted plan to chief executive)

This clause omits sections 54 of the *Waste Reduction and Recycling Act 2011* which requires a planning entity to give a copy of their waste reduction and recycling plan, or amended plan, to the chief executive. This section is no longer considered necessary because a copy of the plan can be obtained, if necessary, by an authorised person through their powers under the Act e.g. s.234. This is consistent with the approach being taken to local governments in relation to their plans. If the Chief executive would like a copy of plan, there are other ways to obtain the plans, without requiring the planning entity to provide a copy when there is no requirement for the chief executive to review or approve the plans.

Clause 38 Amendment of s 147 (Local government reporting)

This clause amends section 147 of *Waste Reduction and Recycling Act 2011* which provides for when a local government is required to report on their waste reduction and recycling plan. This amendment extends the reporting requirement so that it does

not start to apply to a local government until 2 months after the end of the first full financial year after the day prescribed for a local government under section 123(1), which is a date to be prescribed under a regulation.

Clause 39 Amendment of s 148 (State entity reporting)

This clause amends section 148 of *Waste Reduction and Recycling Act 2011* which provides for when a State entity is required to report. This amendment extends the reporting requirement so that it does not start to apply to a state entity until 2 months after the end of the first full financial year after the day prescribed under section 133(1), which is a date to be prescribed under a regulation. This amendment also omits subsection (3) which required State entities to provide a report on their waste reduction and recycling plan in their annual report.

Clause 40 Amendment of s 149 (Planning entity reporting)

This clause amends section 149 of *Waste Reduction and Recycling Act 2011* which provides for when a planning entity is required to report. This amendment extends the reporting requirement so that it does not start to apply until 2 months after the day prescribed for section 141(4), which is a date to be prescribed under a regulation.

Clause 41 Amendment of s 150 (Identification of reporting entity)

This clause amends section 150 of *Waste Reduction and Recycling Act 2011* which allows for the chief executive or regulation to identify an entity as a reporting entity.

Currently, subsection (4) – which limits reporting requirements to reporting entities managing more than 1000 tonnes of waste each financial year (via s.41 of the *Waste Reduction and Recycling Regulation 2011*), only applies when the chief executive identifies an entity as a reporting entity. However, all current reporting entities have been prescribed through the regulation making powers, rather than chief executive powers. The effect of this is that the threshold of 1000 tonnes as prescribed in the regulation for reporting does not apply to any reporting entities and that all recycling activities, regardless of their size, are required to provide a report to the chief executive within 2 months after the end of each financial year.

This amendment will reduce the administrative burden on small businesses to ensure that any threshold prescribed for the purposes of this section (via s.41 of the *Waste Reduction and Recycling Regulation 2011*) applies irrespective of whether they are identified as reporting entities through chief executive or regulation making powers.

A further amendment to this section will allow the regulation to prescribe different thresholds for different entity's and different wastes and different locations. This is required because there may be circumstances when the 1000t threshold currently prescribed may not be appropriate for all situations. For example, the regulation may prescribe a reporting threshold of only 100t per year for an entity treating hazardous wastes.

Clause 42 Amendment of s 153 (Requirements for report)

This clause amends section 153 of *Waste Reduction and Recycling Act 2011* to remove the word levyable.

Clause 43 Amendment of s 245 (Definitions for ch 11)

This clause amends section 245 of the *Waste Reduction and Recycling Act 2011* which defines terms for the purposes of chapter 11 (Show cause notices and compliance notices). The amendments are consequential to other amendments and remove references to sections that are being repealed.

Clause 44 Amendment of s 249 (Restriction on giving compliance notice)

This clause amends section 249 of the *Waste Reduction and Recycling Act 2011* which places restrictions on giving a compliance notice.

Due to the 12 month extension to the weighbridge requirements under section 43, some operators may reach the point of closing sites that are still required under that section to install a weighbridge. It is not the intent to require the operator of a waste disposal site that is planned for closure in the near future to install a weighbridge.

Because the enforcement of the requirement to have a weighbridge under s.43 is through the compliance notice provisions, this amendment states that for the prescribed provision s.43(2) (as defined in section 245), the chief executive may not issue a compliance notice for this prescribed provision if the chief executive is satisfied that the site where the weighbridge is required is due to close within 1 year from the when the requirement to have a weighbridge started to apply.

Clause 45 Amendment of s 251 (Person must comply with notice)

This clause amends section 251 of the *Waste Reduction and Recycling Act 2011* which contains the offence for failing to comply with a compliance notice. The amendment is consequential to other amendments and removes a reference to section 146(2) which is being repealed.

Clause 46 Amendment of s 253 (When waste audit required)

This clause amends section 253 of the *Waste Reduction and Recycling Act 2011* which specifies when a waste audit can be required. The amendments are consequential to other amendments and remove references to sections that are being repealed.

Clause 47 Amendment of s 271 (Regulation-making power)

This clause amends section 271 of the *Waste Reduction and Recycling Act 2011* which sets out the ability for regulations to be made about the Act. The amendment removes the ability to regulate or provide additional requirements for weighbridges and is consequential to an amendment to section 43 which removes the provision that allows the regulation to prescribe requirements for the installation and operation of the weighbridge.

Clause 48 Insertion of new ch15A

This clause inserts a new chapter 15A into the *Waste Reduction and Recycling Act 2011* to provide validation and transitional provisions for this Bill.

Chapter 15A Validation and transitional provisions for Waste Reduction and Recycling and Other Legislation Amendment Act 2012

Part 1 Preliminary

Section 301A Definitions for ch 15A

This section inserts definitions that apply to Chapter 15A.

Part 2 Validation provision

Section 301B Validation of repeal of waste levy on 1 July 2012

The *Waste Reduction and Recycling Amendment Regulation (No 1) 2012* effectively repealed the waste levy by prescribing a nil levy rate for all waste types. However, this new provision has been provided in the Act to remove any doubt and retrospectively validate the levy repeal from 1 July 2012.

Part 3 Transitional provisions

Section 301C Operator of levyable waste disposal site to keep documents

This section contains a new transitional provision so that the current requirements to keep documents for 5 years with respect to section 53 will be retained for possible compliance and auditing purposes.

Section 301D Estimation of waste levy amount payable

This section contains a new transitional provision so that the current powers of the chief executive to estimate the waste levy amount payable by the operator of a levyable waste disposal site, for the period prior to the levy being repealed, continue to apply until 1 July 2018 for possible compliance and auditing purposes.

Section 301E Keeping of particular documents in relation to resource recovery areas

This section contains a new transitional provision so that the requirement to keep documents for 5 years with respect to the operation of a resource recovery area, under the repealed section 65, will be retained for possible compliance and auditing purposes.

Section 301F Keeping of results of volumetric survey for resource recovery area

This section contains a new transitional provision so that the requirement to keep documents for 5 years with respect to the results of any volumetric survey performed, under the repealed section 66, will be retained for possible compliance and auditing purposes.

Section 301G Waste levy amounts and the Waste and Environment Fund

This section contains a new transitional provision to allow any remaining transactions associated with the repealed Waste and Environment Fund to be managed through the accounts of the department.

Section 301H Discounted levy and waste levy exemption

This section contains a new transitional provision that ceases the operation of sections 277 to 294 of the *Waste Reduction and Recycling Act 2011* which allow for a discounted levy for residue waste and an exemption from the waste levy for residue waste. These sections are no longer required due to the repeal of the waste levy.

Section 301I Existing strategic plans under repealed waste management policy

This section contains a new transitional provision that allows existing plans under the repealed legislation to continue in effect until a new plan is required to be adopted under this Act.

Section 301J Clinical and related waste management plans

This section contains a new transitional provision that requires a new clinical and related waste management plans to be prepared by a day prescribed under a regulation.

Clause 49 Amendment of schedule (Dictionary)

This clause amends the Dictionary of the *Waste Reduction and Recycling Act 2011* to delete terms associated with the waste levy and insert new definitions for GCM, GVM, reporting period, waste data return and waste disposal site.

Part 6 Minor amendments

Clause 50 Acts amended

This schedule makes numerous minor amendments to the *Coastal Protection and Management Act 1995*, the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*, and the *Waste Reduction and Recycling Act 2011* to correct grammar, correct typographical errors, correct incomplete cross-references, correct terminology as a result of inserting new provisions and transitional provisions and to omit obsolete headings.