



Queensland

Great Barrier Reef Protection Amendment Bill 2009



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2009

A Bill

for

**An Act to amend the *Environmental Protection Act 1994* and
the *Integrated Planning Act 1997* for particular purposes**

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Great Barrier Reef Protection Amendment Act 2009*. 4
5

Clause 2 Commencement 6

This Act, other than section 19, commences on a day to be 7
fixed by proclamation. 8

Part 2 Amendment of Environmental Protection Act 1994 9
10

Clause 3 Act amended 11

This part amends the *Environmental Protection Act 1994*. 12

Clause 4 Amendment of s 18 (Meaning of *environmentally relevant activity*) 13
14

(1) Section 18(c)— 15
renumber as section 18(d). 16

(2) Section 18(a) and (b)— 17
omit, insert— 18

‘(a) an agricultural ERA as defined under section 75; or 19

-
- (b) a mining activity as defined under section 147; or 1
 - (c) a chapter 5A activity as defined under section 309A; or'. 2

Clause 5 Amendment of s 19 (Environmentally relevant activity may be prescribed) 3
4

Section 19, 'a mining activity or chapter 5A activity'— 5
omit, insert— 6
'an agricultural ERA, a mining activity or a chapter 5A 7
activity'. 8

Clause 6 Insertion of new ch 4A 9

After section 73T— 10
insert— 11

'Chapter 4A Great Barrier Reef protection measures 12
13

'Part 1 Preliminary 14

'74 Purpose of ch 4A 15

'The purpose of this chapter is to— 16

- (a) reduce the impact of agricultural activities on the quality 17
of water entering the reef; and 18
- (b) contribute to achieving the targets about water quality 19
improvement for the reef under agreements between the 20
State and the Commonwealth from time to time. 21

Note— 22

At the commencement of this section the current agreement was 23
the 'Reef Water Quality Protection Plan: For catchments 24
adjacent to the Great Barrier Reef World Heritage Area October 25
2003'. 26

[s 6]

- ‘75 What is an *agricultural ERA*** 1
- ‘(1) An activity is an *agricultural ERA* if— 2
- (a) it is— 3
- (i) commercial sugar cane growing; or 4
- (ii) cattle grazing carried out on an agricultural 5
property carrying more than 100 standard cattle 6
units; and 7
- (b) it is carried out on an agricultural property in 1 or more 8
of the following catchments (each a *priority* 9
catchment)— 10
- (i) the Wet Tropics catchment; 11
- (ii) the Mackay-Whitsunday catchment; 12
- (iii) the Burdekin dry tropics catchment. 13
- ‘(2) However, if only part of the agricultural property is in 1 or 14
more of the priority catchments, the activity is only an 15
agricultural ERA if— 16
- (a) more than 75% of the lot on which it is carried out is in 17
1 or more of the priority catchments; or 18
- (b) the part of the lot within 1 or more of the priority 19
catchments is more than 20000ha. 20
- ‘(3) For subsection (1)(b), the priority catchments— 21
- (a) are identified on the map held by the department called 22
‘Map of Great Barrier Reef Catchments covered by the 23
Queensland Government Reef Protection Package’, 24
Map No. g090514-01; but 25
- Editor’s note—* 26
- At the commencement of this section the map was available for 27
inspection on the department’s website at 28
<www.derm.qld.gov.au>. 29
- (b) also include any other land prescribed under a 30
regulation. 31
- ‘(4) A regulation may be made under subsection (3)(b) only if— 32

- (a) the other land forms part of an agricultural property that is only partly within any of the catchments identified on the map; and
- (b) each priority catchment will, after the making of the regulation, be a contiguous parcel of land.

‘(5) In this section—

lot means—

- (a) a lot under the *Land Title Act 1994*; or
- (b) a separate, distinct parcel of land for which an interest is recorded in a register under the *Land Act 1994*.

standard cattle units means units of measurement based on the live weight of cattle as follows—

Live weight of head (kg)	Number of standard cattle units
up to 350	0.67
more than 350 to 400	0.74
more than 400 to 450	0.81
more than 450 to 500	0.87
more than 500 to 550	0.94
more than 550 to 600	1.00
more than 600 to 650	1.06
more than 650 to 700	1.12
more than 700	1.18.

‘76 Who carries out an agricultural ERA

‘A person *carries out* an agricultural ERA only if the person—

- (a) carries it out personally; or
- (b) employs or engages someone else to carry it out on the person’s behalf.

[s 6]

‘77	Other definitions for ch 4A	1
	‘In this chapter—	2
	<i>accredited</i> , for an ERMP, means accredited under part 3.	3
	<i>agricultural chemicals</i> means agricultural chemical products, as defined under the Agvet Code of Queensland applying under the <i>Agricultural and Veterinary Chemicals (Queensland) Act 1994</i> .	4 5 6 7
	<i>agricultural ERA record</i> see section 83(1)(a).	8
	<i>agricultural property</i> means a parcel or parcels of land, managed as one unit to carry out an agricultural activity.	9 10
	<i>cattle</i> includes—	11
	(a) beef and dairy cattle; and	12
	(b) cattle of all ages.	13
	<i>ERMP</i> means environmental risk management plan.	14
	<i>ERMP direction</i> see section 88(b).	15
	<i>optimum amount</i> , for the application of nitrogen and phosphorus to soil on an agricultural property, means the highest amount of nitrogen and phosphorus that can be applied without over-fertilising the property.	16 17 18 19
	<i>over-fertilisation</i> , of an agricultural property, means that fertiliser has been applied to soil on the property at above the needs of the plants being or to be fertilised.	20 21 22
	<i>priority catchment</i> see section 75(1)(b).	23
	<i>production requirement</i> see section 85(1).	24
	<i>reef</i> means the Great Barrier Reef.	25
	<i>relevant agricultural property</i> for—	26
	(a) a provision about an agricultural ERA—means the agricultural property on which the agricultural ERA is carried out; or	27 28 29
	(b) a provision about an ERMP—means the agricultural property on which the agricultural ERA the subject of the ERMP is carried out.	30 31 32

<i>relevant primary documents</i> , for an agricultural ERA record, see section 84(2).	1 2
<i>sugar cane growing</i> means a system for growing sugar cane, whether or not it includes the rotation of other crops.	3 4
‘Part 2	
Requirements for carrying out agricultural ERAs	5 6
‘Division 1	
Fertiliser application requirements	7
‘Subdivision 1	
Offence	8
‘78	
Offence about fertiliser application	9
‘A person who carries out an agricultural ERA must not apply nitrogen or phosphorus to soil on the relevant agricultural property unless—	10 11 12
(a) all of the conditions under subdivision 2 have been complied with; or	13 14
(b) the person has an accredited ERMP for the agricultural ERA and the ERMP—	15 16
(i) provides for an alternative procedure to prevent over-fertilisation of the property; and	17 18
(ii) states that the procedure is an alternative to compliance with the conditions.	19 20
Maximum penalty—100 penalty units.	21
<i>Note—</i>	22
Noncompliance with an accredited ERMP is not, in itself, an offence. However, the noncompliance may be the subject of a direction notice. See section 363B.	23 24 25

[s 6]

‘Subdivision 2	Conditions to prevent over-fertilisation	1 2
‘79	Application of sdiv 2	3
	‘This subdivision applies to a person carrying out an agricultural ERA.	4 5
‘80	Working out optimum amount	6
	‘(1) The person must work out the optimum amount of nitrogen and phosphorus that can be applied to soil on the relevant agricultural property.	7 8 9
	‘(2) The working out must use the results of soil tests required under section 81.	10 11
	‘(3) A regulation may prescribe a methodology for working out the optimum amount.	12 13
	‘(4) If a prescribed methodology applies for the application of nitrogen or phosphorus to soil on the property, the optimum amount must be worked out under the methodology.	14 15 16
‘81	Soil testing	17
	‘(1) The person must cause—	18
	(a) soil tests of the relevant agricultural property to be carried out to test the characteristics of the soil to allow the optimum amount to be worked out; and	19 20 21
	(b) reports to be prepared for each of the tests that shows its results.	22 23
	‘(2) The tests and the reports must be carried out or prepared by a person with appropriate experience or qualifications.	24 25
	‘(3) A regulation may prescribe—	26
	(a) the intervals at which the tests must be carried out; and	27

(b)	a methodology for carrying out the tests.	1
‘(4)	The carrying out of the tests must comply with the regulation.	2
‘82	Restriction on application of fertiliser	3
	‘Fertiliser containing nitrogen or phosphorus must not be applied to soil on the relevant agricultural property at more than the optimum rate.	4 5 6
‘Division 2	Document requirements	7
‘Subdivision 1	Documents that must be kept	8
‘83	Required record	9
‘(1)	A person who carries out an agricultural ERA must unless the person has a reasonable excuse—	10 11
(a)	make or cause to be made within the required period a record (an <i>agricultural ERA record</i>) in the approved form about the matters mentioned in subsection (2); and	12 13 14
(b)	keep the record for at least 5 years.	15
	Maximum penalty—100 penalty units.	16
‘(2)	For subsection (1)(a) the matters are all of the following—	17
(a)	any of the following applied on the relevant agricultural property—	18 19
(i)	agricultural chemicals;	20
(ii)	fertilisers;	21
(iii)	soil conditioners;	22
(b)	soil test reports prepared under section 81;	23
(c)	optimum amounts worked out under section 80;	24

[s 6]

- (d) if the agricultural ERA is cattle grazing—the stocking rate at the start of each financial year and any change to that rate; 1
2
3
- (e) any other matter prescribed under a regulation. 4
- ‘(3) In this section— 5
- required period* means within 10 business days after— 6
- (a) generally—the happening of the event mentioned in subsection (2) for which the record must be made; or 7
8
- (b) for the stocking rate at the start of a financial year—the start of that year. 9
10
- ‘84 Obligation to keep relevant primary documents 11**
- ‘(1) A person who makes an agricultural ERA record must keep all relevant primary documents for the record for at least 5 years after making it unless the person has a reasonable excuse. 12
13
14
15
- Maximum penalty—100 penalty units. 16
- ‘(2) The *relevant primary documents*, for an agricultural ERA record, are— 17
18
- (a) documents relating to the carrying out of the agricultural ERA the subject of the record from which information in the record was obtained; and 19
20
21
- Example—* 22
- invoices for the purchase of fertiliser 23
- (b) soil test reports mentioned in the record. 24
- ‘Subdivision 2 Production of documents 25**
- ‘85 Power to require production of documents 26**
- ‘(1) An authorised person may, by written notice, require (a *production requirement*) a person carrying out an agricultural 27
28

ERA (the <i>operator</i>) to produce to the authorised person for inspection within 10 business days—	1 2
(a) the operator’s current agricultural ERA records; or	3
(b) the relevant primary documents for the records.	4
‘(2) A production requirement may be for—	5
(a) all of the operator’s current agricultural ERA records; or	6
(b) the operator’s current agricultural ERA records for a stated period; or	7 8
(c) a stated current agricultural ERA record of the operator.	9
‘(3) If the record or document produced is a hard copy, the authorised person—	10 11
(a) may keep the record or document to take an extract from, or make a copy of, it; but	12 13
(b) must return it to the operator as soon as practicable after taking the extract or making the copy.	14 15
‘(4) This section does not limit section 466.	16
‘(5) In this section—	17
<i>current agricultural ERA records</i> , for the operator, means any of the operator’s agricultural ERA records that are still subject to the requirement under section 83(1)(b).	18 19 20
‘86 Offence not to comply with production requirement	21
‘A person of whom a production requirement has been made must comply with the requirement unless the person has a reasonable excuse.	22 23 24
Maximum penalty—100 penalty units.	25
‘87 Derivative use immunity for production	26
‘(1) It is not a defence to a proceeding for an offence against section 86 that the relevant document contains information that might tend to incriminate the defendant.	27 28 29

[s 6]

‘(2)	However, if the defendant is an individual, incriminating evidence is not admissible in evidence against the defendant in a civil or criminal proceeding.	1 2 3
‘(3)	Subsection (2) does not apply to a proceeding for an offence for which the falsity or misleading nature of the relevant document is relevant.	4 5 6
‘(4)	In this section—	7
	<i>incriminating evidence</i> means evidence of, or evidence directly or indirectly derived from a relevant document or information it contains that might tend to incriminate the defendant.	8 9 10 11
	<i>relevant document</i> means a record, or a relevant primary document for a record, the subject of the relevant document production requirement.	12 13 14
‘Part 3	Environmental risk management plans	15 16
‘Division 1	General matters	17
‘88	When an accredited ERMP is required	18
	‘A person who carries out an agricultural ERA must have an accredited ERMP for the agricultural ERA if—	19 20
	(a) it consists of—	21
	(i) sugar cane growing on more than 70ha in the Wet Tropics catchment under section 75; or	22 23
	(ii) cattle grazing on more than 2000ha in the Burdekin dry tropics catchment under section 75; or	24 25
	<i>Note—</i>	26
	See however section 657 (Deferral of automatic ERMP requirement for existing agricultural ERAs).	27 28

-
- (b) the person is the recipient of a direction given under this division (an *ERMP direction*). 1
2

Note— 3

An ERMP may also be voluntarily submitted for accreditation. See section 97. 4
5

‘89 When ERMP direction may be given 6

‘The Minister may give a person carrying out an agricultural ERA an ERMP direction only if— 7
8

- (a) the Minister considers an ERMP is necessary or desirable— 9
10
- (i) to improve the quality of water being released from the relevant agricultural property; or 11
12
- (ii) because the agricultural ERA is causing or may cause unlawful environmental harm; and 13
14
- (b) the direction complies with section 90; and 15
- (c) if it has more than 1 recipient—section 91 is complied with. 16
17

‘90 Form of ERMP direction and what it may require 18

‘(1) An ERMP direction must— 19

- (a) be written; and 20
- (b) identify the recipient; and 21
- (c) state each of the following— 22
- (i) the agricultural ERA for which an ERMP is required; 23
24
- (ii) the relevant agricultural property; 25
- (iii) the recipient’s obligations under section 92; 26
- (iv) that it is an offence for the recipient not to comply with the obligations under section 92 unless the recipient has a reasonable excuse; 27
28
29

[s 6]

	(v) the maximum penalty for the offence; and	1
	(d) be accompanied by or include an information notice about the decision to give the direction.	2 3
'(2)	Despite section 92, an ERMP direction may provide that the ERMP need not include the matters mentioned in section 94(d).	4 5 6
'(3)	An ERMP direction may require the recipient to include in the ERMP any matter that the Minister reasonably considers is necessary or desirable to reduce the impact of the agricultural ERA on the quality of water entering the reef.	7 8 9 10
'91	Public notice of ERMP directions with multiple recipients	11 12
'(1)	This section applies if an ERMP direction has more than 1 recipient.	13 14
'(2)	As well as giving the ERMP direction to each of the recipients individually, the Minister must also publish it in a modified form—	15 16 17
	(a) in a newspaper circulating generally in the State; and	18
	(b) in another newspaper published generally in the relevant priority catchment.	19 20
'(3)	The modified form—	21
	(a) must not include any of the recipient's names; but	22
	(b) must include enough detail about the area or a type of agricultural ERA to which the ERMP direction applies to allow each recipient to be aware that it applies to them.	23 24 25 26
'92	Obligations if accredited ERMP required	27
	'If, under section 88, a person must have an accredited ERMP, the person must unless the person has a reasonable excuse—	28 29

-
- (a) prepare, for the person's agricultural ERA, an ERMP that complies with the requirements under division 2 (the *ERMP content requirements*); and
- (b) within 3 months submit it to the administering authority for accreditation.
- Maximum penalty—300 penalty units.

'93 Unaccredited ERMP has no effect

'Other than for the purpose of submission to seek accreditation, an ERMP has no effect unless it has been accredited.

'Division 2 ERMP content requirements

- '94 General content requirements**
- 'An ERMP must—
- (a) state each of the following—
- (i) the person who prepared it;
 - (ii) the agricultural ERA the subject of the ERMP;
 - (iii) the person carrying out the agricultural ERA;
 - (iv) a description of the relevant agricultural property;
 - (v) the period for which the ERMP applies; and
- (b) identify any hazards of the property that may cause the release of contaminants into water entering the reef; and
- Examples of things that may be a hazard—*
- the application of fertiliser or agricultural chemicals
 - erosion zones
 - low levels of ground cover

[s 6]

(c)	include measurable targets and performance indicators for improving the quality of water being discharged from the property; and	1 2 3
(d)	subject to sections 90(2) and 95, include a management plan for the agricultural ERA that provides for the management of—	4 5 6
(i)	the application of agricultural chemicals on the property; and	7 8
(ii)	nutrients applied to soil on the property; and	9
(iii)	sediment loss from the property, including the management of ground cover and erosion zones to prevent sediment loss; and	10 11 12
(e)	if an ERMP direction has been given—provide for any matter that, under section 90(3), must be included in the ERMP; and	13 14 15
(f)	provide for any matter that is reasonably necessary to reduce the impact of the agricultural ERA on the quality of water entering the reef; and	16 17 18
(g)	any other matter prescribed under an environmental protection policy or a regulation.	19 20
‘95	Exceptions for management plan requirement	21
‘(1)	Section 94(d)(i) does not apply if the person carrying out the agricultural ERA has been certified as an organic operator by the Australian Quarantine Inspection Service.	22 23 24
‘(2)	If the agricultural ERA the subject of the ERMP is cattle grazing, section 94(d)(ii) only applies for pastures on the relevant agricultural property that are to be fertilised.	25 26 27
‘96	Documents that may make up ERMP	28
‘(1)	The ERMP content requirements may be complied with in any number of documents or by incorporating the provisions of other documents into the ERMP.	29 30 31

‘(2)	The documents may be documents prepared for another purpose.	1 2
‘(3)	An ERMP need not be called an environmental risk management plan.	3 4
	<i>Example for section 96—</i>	5
	A person carrying out an agricultural ERA will comply with the ERMP content requirements if—	6 7
	(a) for good business practice, the person prepares a document called a ‘farm management system’ that includes an environmental management component; and	8 9 10
	(b) the component consists of a land management agreement under the <i>Land Act 1994</i> and other documents; and	11 12
	(c) the agreement and the other documents, when read together, comply with the ERMP content requirements, but they are not identified as an ERMP; and	13 14 15
	(d) the person submits the component for accreditation as an ERMP.	16
‘Division 3	Accreditation of ERMPs	17
‘97	Application of div 3	18
	‘This division applies if a person has submitted an ERMP to the administering authority for accreditation, whether or not the person was required to do so under section 92.	19 20 21
‘98	Request for further information	22
	‘The administering authority may, by written notice, ask the person to give the authority further information or documents about the ERMP content requirements by the reasonable date stated in the notice.	23 24 25 26
‘99	Deciding whether to accredit	27
‘(1)	The administering authority must decide to accredit or refuse to accredit the ERMP—	28 29

[s 6]

- (a) if additional information is not required—within 60 business days after receiving the ERMP; or
 - (b) if additional information is required—within 60 business days after the information is received or should have been given, whichever is earlier.
- ‘(2) The administering authority may decide to accredit the ERMP only if the authority is satisfied it complies with the ERMP content requirements.
- ‘100 Notice of decision**
- ‘Within 10 business days after making the decision, the administering authority must give the person—
- (a) if the decision is to accredit—a written notice of the decision; or
 - (b) if the decision is to refuse to accredit—an information notice about the decision.
- ‘101 Amended ERMP required if accreditation refused**
- ‘(1) If the decision is to refuse to accredit, the person must—
- (a) amend the ERMP to address the reasons for the decision; and
 - (b) within 20 business days after receiving notice of the decision or of any extended period under subsection (2), give the administering authority the amended ERMP.
- Maximum penalty—100 penalty units.
- ‘(2) The administering authority may extend the period of 20 business days mentioned in subsection (1).
- ‘(3) This division applies to the amended ERMP—
- (a) as if a reference to the ERMP were a reference to the amended ERMP; and
 - (b) with other necessary changes.

‘Division 4	Amendment of accredited ERMPs	1
‘102	Application of div 4	2
	‘This division applies to a person carrying out an agricultural ERA for which there is an accredited ERMP.	3 4
‘103	Voluntary amendment	5
	‘(1) The person may at any time—	6
	(a) amend the ERMP; and	7
	(b) submit it to the administering authority for accreditation.	8 9
	‘(2) Division 3 applies to the amended ERMP—	10
	(a) as if a reference to the ERMP were a reference to the amended ERMP; and	11 12
	(b) as if a reference to accreditation of an ERMP were a reference to accreditation of the amended ERMP; and	13 14
	(c) with other necessary changes.	15
‘104	Direction to amend	16
	‘(1) This section applies if the administering authority considers it is necessary or desirable to amend the ERMP—	17 18
	(a) because it no longer complies with ERMP content requirements; or	19 20
	(b) to improve the quality of water being discharged from the relevant agricultural property; or	21 22
	(c) because the agricultural ERA the subject of the ERMP is causing or may cause unlawful environmental harm.	23 24
	‘(2) The administering authority may give the person carrying out the agricultural ERA a written direction to—	25 26
	(a) amend the ERMP in a stated way so as to comply with ERMP content requirements; and	27 28

[s 7]

- (b) within 3 months submit it to the administering authority for accreditation. 1
2
- ‘(3) Divisions 1 to 3 apply— 3
 - (a) as if the direction were an ERMP direction; and 4
 - (b) as if a reference to an ERMP were a reference to the amended ERMP; and 5
6
 - (c) as if a reference to accreditation of an ERMP were a reference to accreditation of the amended ERMP; and 7
8
 - (d) with other necessary changes. 9

‘Division 5 Annual reporting 10

‘105 Annual reporting requirement 11

- ‘(1) This section applies to a person carrying out an agricultural ERA for which there is an accredited ERMP. 12
13
- ‘(2) The person must, within 2 months after the end of each financial year, give the administering authority an annual report in the approved form about the implementation of the ERMP unless the person has a reasonable excuse. 14
15
16
17
Maximum penalty—100 penalty units.’. 18

Clause 7 Amendment of s 320 (Duty to notify environmental harm) 19

- Section 320(2)— 20
- insert—* 21
- ‘(g) an accredited ERMP.’. 22

Clause 8 Amendment of s 346 (Effect of compliance with program) 23

- Section 346(2) and (3)— 24
- insert—* 25
- ‘(f) an accredited ERMP.’. 26

Clause 9	Amendment of s 358 (When order may be issued)	1
	Section 358(d)—	2
	<i>insert—</i>	3
	‘(x) an accredited ERMP.’	4
Clause 10	Replacement of s 363A (Prescribed provisions)	5
	Section 363A—	6
	<i>omit, insert—</i>	7
	‘363A Prescribed provisions	8
	‘(1) This part provides for a direction notice to be issued for a contravention of any of the following (each of which is a <i>prescribed provision</i>)—	9 10 11
	(a) section 440, 440Q or 440ZG;	12
	<i>Editor’s note—</i>	13
	section 440 (Offence of causing environmental nuisance), 440Q (Offence of contravening a noise standard) or 440ZG (Depositing prescribed water contaminants in waters and related matters)	14 15 16
	(b) a provision of an accredited ERMP for an agricultural ERA.	17 18
	‘(2) However, a provision of the accredited ERMP is a prescribed provision only if the person contravening the provision is the person carrying out the agricultural ERA.	19 20 21
	<i>Note—</i>	22
	If there is a transitional environmental program for the activity, see section 346 (Effect of compliance with program).’.	23 24
Clause 11	Amendment of s 452 (Entry of place—general)	25
	Section 452(1)(ca), after ‘to which’—	26
	<i>insert—</i>	27
	‘an agricultural ERA.’	28

[s 12]

Clause 12	Amendment of s 458 (Order to enter land to conduct investigation or conduct work)	1 2
	Section 458(1)(a)(iii)(A), after ‘an’—	3
	<i>insert—</i>	4
	‘accredited ERMP’.	5
Clause 13	Amendment of s 490 (Evidentiary provisions)	6
	(1) Section 490(5)(a), after ‘report,’—	7
	<i>insert—</i>	8
	‘accredited ERMP’.	9
	(2) Section 490(5)(c), after ‘an’—	10
	<i>insert—</i>	11
	‘accredited ERMP’.	12
Clause 14	Amendment of s 493A (When environmental harm or related acts are unlawful)	13 14
	(1) Section 493A(5)—	15
	<i>renumber</i> as section 493A(6).	16
	(2) Section 493A(4)—	17
	<i>omit, insert—</i>	18
	‘(4) The defendant is taken to have complied with the general environmental duty if the defendant proves—	19 20
	(a) an accredited ERMP applied to the doing of the relevant act; and	21 22
	(b) to the extent it is relevant, the defendant complied with the ERMP.	23 24
	‘(5) The defendant is also taken to have complied with the general environmental duty if the defendant proves—	25 26
	(a) an approved code of practice applied to the doing of the relevant act; and	27 28

-
- (b) to the extent it is relevant, the defendant complied with the code; and 1
2
- (c) no accredited ERMP applied to the doing of the relevant act.’. 3
4

- Clause 15 Amendment of s 520 (Dissatisfied person)** 5
- (1) Section 520(1)— 6
insert— 7
‘(aa) if the decision is to refuse to accredit an ERMP, the person who submitted it; or’ 8
9
- (2) Section 520(1)(f), after ‘an’— 10
insert— 11
‘ERMP direction,’. 12

- Clause 16 Amendment of s 538 (Appeals may be heard with planning appeals)** 13
14
- (1) Section 538(1)(a), after ‘registration certificate’— 15
insert— 16
‘or to accredit an ERMP’. 17
- (2) Section 538(1)(b), ‘which the certificate’— 18
omit, insert— 19
‘which the certificate or the ERMP’. 20

- Clause 17 Amendment of s 540 (Required registers)** 21
- (1) Section 540(1)(e) to (t)— 22
renumber as section 540 (1)(f) to (u). 23
- (2) Section 540(1)— 24
insert— 25
‘(e) in relation to chapter 4A— 26

[s 18]

	(i) ERMP directions; and	1
	(ii) accredited ERMPs;’.	2
Clause 18	Insertion of new ch 13, pt 13	3
	Chapter 13—	4
	<i>insert—</i>	5
‘Part 13	Transitional provisions for Great Barrier Reef Protection Amendment Act 2009	6 7 8
‘657	Deferral of automatic ERMP requirement for existing agricultural ERAs	9 10
	‘Section 88(a) does not apply to an agricultural ERA carried out before the commencement of this section until 6 months after the commencement.	11 12 13
‘658	Provision for appeals for ch 4	14
	‘The <i>Great Barrier Reef Protection Amendment Act 2009</i> , section 19(2) is taken to have had effect from 23 February 2009.’.	15 16 17
Clause 19	Amendment of sch 2 (Original decisions)	18
	(1) Schedule 2, part 1, division 2—	19
	<i>omit, insert—</i>	20
‘Division 2	Decisions under chapter 4A	21
Section	Description of decision	
89	decision to give ERMP direction	
99	decision to refuse to accredit ERMP’.	

- (2) Schedule 2, part 2— 1
insert— 2

‘Division 1A Decisions under chapter 4 3

Section	Description of decision
73E	refusal to grant an application for registration
73F	refusal to grant a single registration certificate
73FA	decision to cancel a single registration certificate for activities and issue 2 or more registration certificates for the activities
73L	decision to cancel or suspend registration
73O(3)	decision to refuse surrender of registration certificate’.

- (3) Schedule 2, part 2, division 3— 4
relocate and *renumber* as schedule 2, part 1, division 3A. 5

Clause 20 Amendment of sch 4 (Dictionary) 6

- (1) Schedule 4— 7
insert— 8
‘accredited, for an ERMP, see section 77. 9
agricultural chemicals see section 77. 10
agricultural ERA see section 75. 11
agricultural ERA record see section 83(1)(a). 12
agricultural property see section 77. 13
carries out, an agricultural ERA, see section 76. 14
cattle see section 77. 15
ERMP see section 77. 16
ERMP content requirements see section 92(a). 17

[s 20]

<i>ERMP direction</i> see section 88(b).	1
<i>optimum amount</i> , for the application of nitrogen and phosphorus to soil on an agricultural property, see section 77.	2 3
<i>over-fertilisation</i> , of an agricultural property, see section 77.	4
<i>priority catchment</i> see section 75(1)(b).	5
<i>production requirement</i> see section 85(1).	6
<i>reef</i> see section 77.	7
<i>relevant agricultural property</i> see section 77.	8
<i>relevant primary documents</i> , for an agricultural ERA record, see section 84(2).	9 10
<i>sugar cane growing</i> see section 77.’.	11
(2) Schedule 4, definition <i>chapter 4 activity</i> , ‘a mining activity or a chapter 5A activity’—	12 13
<i>omit, insert</i> —	14
‘an agricultural ERA, a mining activity or a chapter 5A activity’.	15 16
(3) Schedule 4, definition <i>contaminated land register</i> , ‘section 540(1)(f)(ii)’—	17 18
<i>omit, insert</i> —	19
‘section 540(1)(h)(ii)’.	20
(4) Schedule 4, definition <i>environmental management register</i> , ‘section 540(1)(f)(i)’—	21 22
<i>omit, insert</i> —	23
‘section 540(1)(h)(i)’.	24
(5) Schedule 4, definition <i>recipient</i> , paragraph (c)—	25
<i>omit, insert</i> —	26
‘(c) for an ERMP direction, direction notice, clean-up notice or cost recovery notice—the person to whom the direction or notice is issued; or’.	27 28 29

Part 3	Amendment of Integrated Planning Act 1997	1 2
Clause 21	Act amended	3
	This part amends the <i>Integrated Planning Act 1997</i> .	4
Clause 22	Amendment of s 1.3.5 (Definitions for terms used in development)	5 6
	Section 1.3.5(1), definition <i>material change of use</i> , paragraph (b), after ‘(other than for’—	7 8
	<i>insert</i> —	9
	‘an agricultural ERA,’.	10
Clause 23	Amendment of sch 8 (Assessable development and self-assessable development)	11 12
	(1) Schedule 8, part 1, table 2, item 1, paragraphs (a) to (e)—	13
	<i>renumber</i> as paragraphs (b) to (f).	14
	(2) Schedule 8, part 1, table 2, item 1—	15
	<i>insert</i> —	16
	‘(a) an agricultural ERA; or’.	17
	(3) Schedule 8, part 1, table 5, item 4, after ‘(other than’—	18
	<i>insert</i> —	19
	‘an agricultural ERA,’.	20
	(4) Schedule 8, part 2, table 5, item 1, paragraphs (a) to (c)—	21
	<i>omit, insert</i> —	22
	‘(a) an agricultural ERA; or	23
	(b) a mining activity; or	24
	(c) a chapter 5A activity; or	25

[s 24]

(d) a mobile and temporary environmentally relevant activity.’. 1
2

Clause 24 Amendment of sch 10 (Dictionary) 3

(1) Schedule 10— 4

insert— 5

*‘agricultural ERA see the Environmental Protection Act 1994, section 75.’. 6
7*

(2) Schedule 10, definition *specified activity*, paragraph (c), ‘a mining activity’— 8
9

omit, insert— 10

‘an agricultural ERA, a mining activity’. 11

12