



Queensland

Environmental Protection and Other Legislation Amendment Bill 2014



Queensland

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	Environmental Protection Act 1987	172
	Vegetation Management Act 1999	173

2014

A Bill

for

An Act to amend the *Biological Control Act 1987*, the *Coastal Protection and Management Act 1995*, the *Environmental Offsets Act 2014*, the *Environmental Protection Act 1994*, the *Nature Conservation Act 1992*, the *Waste Reduction and Recycling Act 2011* and the *Wet Tropics World Heritage Protection and Management Act 1993* for particular purposes, and to make minor and consequential amendments of the Acts mentioned in schedule 1

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Environmental Protection and Other Legislation Amendment Act 2014*. 4
5

Clause 2 Commencement 6

The following provisions commence on a day to be fixed by proclamation— 7
8

(a) part 5, division 3; 9

(b) part 6; 10

(c) part 7, division 3; 11

(d) schedule 1, to the extent it amends the following— 12

(i) the *Environmental Protection Act 1994*; 13

(ii) the *Vegetation Management Act 1999*. 14

Part 2 Amendment of Biological Control Act 1987 15
16

Clause 3 Act amended 17

This part amends the *Biological Control Act 1987*. 18

Note— 19

See also amendments in schedule 1. 20

Clause 4	Amendment of s 3 (Definitions)	1
	Section 3, definition <i>Council</i> —	2
	<i>omit, insert</i> —	3
	<i>Council</i> means—	4
	(a) the standing ministerial council established or recognised by the Council of Australian Governments of which its members include Commonwealth and State ministers with portfolio responsibility for primary industries; or	5 6 7 8 9 10
	(b) if another body is prescribed by regulation—the prescribed body.	11 12
Clause 5	Amendment of s 8 (Queensland Biological Control Authority)	13 14
	Section 8(2)—	15
	<i>omit, insert</i> —	16
	(2) The Authority is—	17
	(a) if only 1 Minister is a member of the Council—that Minister; or	18 19
	(b) if 2 or more Ministers are members of the Council—those Ministers acting jointly; or	20 21
	(c) if paragraphs (a) and (b) do not apply—the Minister administering this Act.	22 23
Clause 6	Insertion of new pt 9	24
	After part 8—	25
	<i>insert</i> —	26

[s 7]

Part 9 **Validation provision** 1

57 Validation provision relating to changes to name of Council 2
3

- (1) For the period starting on 21 May 2001 and ending on 16 September 2011, the Primary Industries Ministerial Council is taken to have been the Council for the purposes of this Act. 4
5
6
7
- (2) For the period starting on 17 September 2011 and ending on 13 December 2013, the Standing Council on Primary Industries is taken to have been the Council for the purposes of this Act. 8
9
10
11
- (3) A recommendation or decision purportedly made under this Act, or an approval purportedly given under this Act, by an entity mentioned in subsection (1) or (2) during the period mentioned in the subsection that would have been valid and lawful if done by the Agriculture and Resource Management Council of Australia and New Zealand is taken to have been validly made or given for the purposes of this Act. 12
13
14
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18
19
20

Part 3 **Amendment of Coastal Protection and Management Act 1995** 21
22
23

- Clause 7** **Act amended** 24
- This part amends the *Coastal Protection and Management Act 1995*. 25
26

Clause 8	Amendment of s 133 (Protection from liability)	1
	(1) Section 133—	2
	<i>insert</i> —	3
	(2A) This section does not apply to an official if the official is a State employee within the meaning of the <i>Public Service Act 2008</i> , section 26B(4).	4 5 6
	(2) Section 133(2A) and (3)—	7
	<i>renumber</i> as section 133(3) and (4).	8
Part 4	Amendment of Environmental Offsets Act 2014	9 10
Clause 9	Act amended	11
	This part amends the <i>Environmental Offsets Act 2014</i> .	12
Clause 10	Insertion of new s 13A	13
	Part 5—	14
	<i>insert</i> —	15
	13A Definition for pt 5	16
	In this part—	17
	<i>existing</i> means—	18
	(a) for a State condition—an offset condition that has been imposed; or	19 20
	(b) for a Commonwealth condition—a condition that has been imposed under a relevant Commonwealth Act.	21 22 23

[s 11]

Clause 11	Amendment of s 14 (Imposing offset condition)	1
(1)	Section 14(3), ‘may’—	2
	<i>omit, insert</i> —	3
	must	4
(2)	Section 14(3), example, ‘may’—	5
	<i>omit, insert</i> —	6
	must	7
Clause 12	Amendment of s 15 (Restriction on imposition of offset condition)	8
(1)	Section 15, heading, after ‘condition’—	9
	<i>insert</i> —	10
	—Commonwealth condition imposed or decision made not to impose Commonwealth condition	11
		12
		13
(2)	Section 15(1)(a), after ‘condition’—	14
	<i>insert</i> —	15
	, imposed under a relevant Commonwealth decision,	16
		17
(3)	Section 15(1)(b), ‘about which’—	18
	<i>omit, insert</i> —	19
	for which there is a relevant Commonwealth decision under which	20
		21
(4)	Section 15—	22
	<i>insert</i> —	23
	(1A) However, subsection (1)(b) does not apply if—	24
	(a) the Commonwealth’s decision not to impose a Commonwealth condition was made on the basis that an offset condition would be imposed by the State or a local government for—	25
		26
		27
		28
		29

-
- (i) the same, or substantially the same, prescribed activity; and 1
2
- (ii) the same, or substantially the same, prescribed environmental matter; and 3
4
- (b) the reasons for the Commonwealth's decision not to impose a Commonwealth condition are stated in a document evidencing the decision. 5
6
7
8
- (5) Section 15— 9
insert— 10
- (3A) Without limiting the matters to which the administering agency may have regard in deciding whether subsection (1)(b) applies, the administering agency may have regard to a document of the Commonwealth about its decision not to impose a Commonwealth condition. 11
12
13
14
15
16
17
- Examples of documents for subsection (3A)—* 18
- a notice of, or statement of reasons for, a grant of a licence, permit or other authority under a relevant Commonwealth Act 19
20
21
 - a notice stating a Commonwealth condition is not imposed on a licence, permit or other authority under a relevant Commonwealth Act 22
23
24
- (3B) In this section— 25
- relevant Commonwealth decision*** means a written decision— 26
27
- (a) under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth), chapter 4, part 9 to approve a controlled action within the meaning of section 67 of that Act; or 28
29
30
31
32
- (b) under another relevant Commonwealth Act to grant a licence, permit or other authority for an activity. 33
34
35

[s 13]

- (6) Section 15(4) to (6)— 1
omit. 2
- (7) Section 15(1A) to (3B)— 3
renumber as section 15(2) to (6). 4

Clause 13	Insertion of new s 15A	5
	Part 5—	6
	<i>insert</i> —	7
	15A Restriction on imposition of offset condition—State condition imposed or decision made not to impose State condition	8 9 10
	(1) An administering agency that is a local government must not impose an offset condition on an authority if the significant residual impact on the prescribed environmental matter relates to an area—	11 12 13 14 15
	(a) for which there is an existing State condition about—	16 17
	(i) the same, or substantially the same, prescribed environmental matter; and	18 19
	(ii) the same, or substantially the same, prescribed activity; or	20 21
	(b) for which the State, in assessing an application for an authority, has decided not to impose a State condition that is within the State's power to impose for—	22 23 24 25
	(i) the same, or substantially the same, prescribed environmental matter; and	26 27
	(ii) the same, or substantially the same, prescribed activity.	28 29
	(2) Subsection (1) applies regardless of whether the administering agency considers—	30 31

(a)	if there is an existing State condition—the significant residual impact on the prescribed environmental matter is, or is likely to be, more significant than the impact for which the existing State condition was decided; or	1 2 3 4 5
(b)	if the State decided not to impose a State condition—the State should have imposed a State condition.	6 7 8
(3)	Without limiting the matters to which the administering agency may have regard in deciding whether subsection (1)(b) applies, the administering agency may have regard to a document of the State relating to its decision not to impose a State condition.	9 10 11 12 13 14
	<i>Examples of documents for subsection (3)—</i>	15
	<ul style="list-style-type: none">• a notice of, or statement of reasons for, an approval for an authority• a notice stating a State condition is not imposed for an authority	16 17 18 19
Clause 14	Insertion of new pt 6A	20
	After part 6—	21
	<i>insert—</i>	22
	Part 6A	
	When offset conditions stop applying	23 24
	25A When particular offset conditions stop applying—condition imposed for same area by Commonwealth etc.	25 26 27
	(1) This section applies to an offset condition imposed on an authority relating to an area if, after the offset condition was imposed—	28 29 30

[s 14]

- (a) a Commonwealth condition is imposed for the area, if the area is not a protected area; or
 - (b) if the offset condition was imposed by a local government—a State condition is imposed for the area.
- (2) If the administering agency that imposed the offset condition is satisfied the condition mentioned in subsection (1)(a) or (b) is for—
- (a) the same, or substantially the same, prescribed activity; and
 - (b) the same, or substantially the same, prescribed environmental matter;
- the administering agency must give written notice of that fact to the authority holder.
- (3) The notice must state that, under this section, the offset condition stops applying, or is taken to have stopped applying, on the day the condition mentioned in subsection (1)(a) or (b) starts or started applying.
- (4) The offset condition stops having effect from the day the condition mentioned in subsection (1)(a) or (b) starts or started applying.
- (5) If the administering agency decides it is not satisfied of the matters mentioned in subsection (2), the administering agency must give the authority holder a notice that states—
- (a) the decision and the reasons for the decision; and
 - (b) that the holder may apply for review of the decision; and
 - (c) how and when the holder may apply for review of the decision.

	(6)	A regulation may provide for a review of the decision.	1 2
	(7)	This section applies despite anything to the contrary in the Act under which the offset condition was imposed (other than as mentioned in section 5).	3 4 5 6
Clause 15		Amendment of s 93 (Regulation-making power)	7
		Section 93(2)(b), ‘an owner’—	8
		<i>omit, insert—</i>	9
		the chief executive or a local government	10
Clause 16		Amendment of sch 2 (Dictionary)	11
	(1)	Schedule 2, definitions <i>administering agency</i> and <i>matter of local environmental significance—</i>	12 13
		<i>omit.</i>	14
	(2)	Schedule 2—	15
		<i>insert—</i>	16
		<i>administering agency</i> means an entity that—	17
	(a)	under another Act, performs a function relating to—	18 19
	(i)	the grant of an authority for a prescribed activity; or	20 21
	(ii)	enforcing compliance with the conditions of an authority for a prescribed activity or otherwise administering the authority; or	22 23 24 25
	(b)	performs a function under part 6 or 7.	26
		<i>Commonwealth condition</i> means a condition that may be imposed on a licence, permit or other authority under a relevant Commonwealth Act,	27 28 29

[s 17]

	the effect of which is equivalent to an offset condition.	1 2
	<i>existing</i> , for part 5, see section 13A.	3
	<i>relevant Commonwealth Act</i> means any of the following—	4 5
	(a) the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cwlth);	6 7
	(b) the <i>Great Barrier Reef Marine Park Act 1975</i> (Cwlth);	8 9
	(c) another Commonwealth Act prescribed under a regulation for this definition.	10 11
	<i>State condition</i> means an offset condition that may be imposed on an authority by the State.	12 13
Part 5	Amendment of Environmental Protection Act 1994	14 15
Division 1	Preliminary	16
Clause 17	Act amended	17
	This part amends the <i>Environmental Protection Act 1994</i> .	18
	<i>Note—</i>	19
	See also amendments in schedule 1.	20

Division 2	Amendments commencing on assent	1 2
Clause 18	Replacement of s 18 (Meaning of <i>environmentally relevant activity</i>)	3 4
	Section 18—	5
	<i>omit, insert</i> —	6
	18 Meaning of <i>environmentally relevant activity</i>	7
	Each of the following is an <i>environmentally relevant activity</i> —	8 9
	(a) an agricultural ERA as defined under section 75;	10 11
	(b) a resource activity as defined under section 107;	12 13
	(c) an activity prescribed under section 19 as an environmentally relevant activity.	14 15
Clause 19	Amendment of s 19 (Environmentally relevant activity may be prescribed)	16 17
	(1) Section 19, ‘activity, other than an agricultural ERA or a resource activity,’—	18 19
	<i>omit, insert</i> —	20
	activity	21
	(2) Section 19—	22
	<i>insert</i> —	23
	(2) To remove any doubt, a regulation made under subsection (1) may not modify the definition of an agricultural ERA or a resource activity.	24 25 26
Clause 20	Insertion of new s 19A	27
	Chapter 1, part 3, division 2, subdivision 4—	28

[s 21]

insert—

19A Interaction between prescribed ERAs and resource activities

- (1) This section applies in relation to an environmental authority for a resource activity if 1 or more activities (each an *ancillary activity*) carried out under the authority as part of a resource activity is also a prescribed ERA.
- (2) The resource activity is taken to be comprised of—
- (a) the ancillary activities; and
 - (b) the other activities carried out under the authority as a resource activity.
- (3) The ancillary activities are taken to be resource activities for the purpose of applications for an environmental authority.
- (4) However, the ancillary activities are taken to be prescribed ERAs for the purpose of the following—
- (a) the conditions imposed on the environmental authority under chapter 5, part 5, division 6; and
 - (b) the fees that apply to the environmental authority under this Act.

Clause 21 Amendment of s 47 (When EIS may be submitted)

Section 47(1)(b), ‘or after’—

omit.

Clause 22 Amendment of s 49 (Decision on whether EIS may proceed)

(1) Section 49(1)—

omit, insert—

-
- (1) The chief executive must consider the submitted EIS and decide whether to allow it to proceed under division 4 within 20 business days after the EIS is submitted (the *decision period*).
- (1A) The chief executive may, by written notice given to the proponent before the end of the decision period, extend the period by no more than 20 business days.
- (1B) Only 1 extension may be made under subsection (2).
- (1C) However, the decision period may be further extended if, at any time before the decision is made, the proponent agrees in writing to the extension.
- (2) Section 49(6)—
insert—
(d) that the proponent may, under section 49A, resubmit the EIS.
- (3) Section 49(1A) to (6)—
renumber as section 49(2) to (9).

Clause 23 Insertion of new s 49A

After section 49—

insert—

49A Proponent may resubmit EIS

- (1) This section applies if the chief executive decides, under section 49, to refuse to allow the EIS to proceed and the proponent—
- (a) does not apply, under section 50, to the Minister to review the decision; or
- (b) applies, under section 50, to the Minister to review the decision and the Minister confirms the decision.

[s 24]

	(2)	The proponent may resubmit, with changes, the EIS to the chief executive within—	1 2
	(a)	3 months after the day notice of the decision is given to the proponent under section 49(8); or	3 4 5
	(b)	if the chief executive and the proponent have, within the 3 months, agreed to a different period—the different period.	6 7 8
	(3)	The proponent may resubmit the EIS under subsection (2) only once.	9 10
	(4)	The resubmitted EIS must be accompanied by the fee prescribed by regulation.	11 12
	(5)	The following provisions apply to the resubmitted EIS as if a reference in the provision to an EIS or submitted EIS were a reference to the resubmitted EIS—	13 14 15 16
	(a)	section 48;	17
	(b)	section 49, other than section 49(9)(d);	18
	(c)	section 50.	19
Clause 24		Amendment of s 50 (Ministerial review of refusal to allow to proceed)	20 21
	(1)	Section 50(2)(b), ‘section 49(5)’— <i>omit, insert—</i>	22 23
		section 49(8)	24
	(2)	Section 50(5), ‘section 49(6)’— <i>omit, insert—</i>	25 26
		section 49(9)	27
Clause 25		Amendment of s 51 (Public notification)	28
		Section 51(1), ‘section 49(5)’—	29

omit, insert— 1
section 49(8) 2

Clause 26 Amendment of s 52 (Required content of EIS notice) 3
Section 52(2)(a), ‘section 49(3)’— 4
omit, insert— 5
section 49(6) 6

Clause 27 Amendment of s 56A (Assessment of adequacy of response to submission and submitted EIS) 7
(1) Section 56A— 8
insert— 9
(2A) The chief executive may, by written notice given 10
to the proponent before the end of the period 11
mentioned in subsection (2), extend the period by 12
no more than 20 business days. 13
(2B) Only 1 extension may be made under subsection 14
(3). 15
(2C) However, the period may be further extended if, 16
at any time before the decision is made, the 17
proponent has agreed in writing to the extension. 18
(2) Section 56A(5)— 19
insert— 20
(d) that the proponent may, under section 21
56AA, resubmit the EIS and the proponent’s 22
response to the submissions. 23
(3) Section 56A(2A) to (5)— 24
renumber as section 56A(3) to (8). 25

Clause 28 Insertion of new s 56AA 27
After section 56A— 28

[s 28]

insert—

56AA Proponent may resubmit EIS

- | | |
|--|----|
| | 1 |
| | 2 |
| (1) This section applies if the chief executive | 3 |
| decides, under section 56A, to refuse to allow the | 4 |
| EIS to proceed and the proponent— | 5 |
| (a) does not apply, under section 56B, to the | 6 |
| Minister to review the decision; or | 7 |
| (b) applies, under section 56B, to the Minister | 8 |
| to review the decision and the Minister | 9 |
| confirms the decision. | 10 |
| (2) The proponent may resubmit, with changes, the | 11 |
| submitted EIS and the proponent's response to | 12 |
| the submissions to the chief executive within— | 13 |
| (a) 20 business days after notice of the decision | 14 |
| is given to the proponent under section | 15 |
| 56A(8); or | 16 |
| (b) if the chief executive and the proponent | 17 |
| have, within the 20 business days, agreed to | 18 |
| a different period—the different period. | 19 |
| (3) The proponent may resubmit under subsection | 20 |
| (2) only once. | 21 |
| (4) A resubmitted EIS must be accompanied by the | 22 |
| fee prescribed by regulation. | 23 |
| (5) The following provisions apply to the | 24 |
| resubmitted EIS and response to submissions as | 25 |
| if a reference in the provision to a submitted EIS | 26 |
| or the proponent's response to the submissions | 27 |
| were a reference to the resubmitted EIS or | 28 |
| proponent's response to the submissions— | 29 |
| (a) section 56A, other than section 56A(8)(d); | 30 |
| (b) section 56B. | 31 |

Clause 29	Amendment of s 56B (Ministerial review of refusal to allow submitted EIS to proceed)	1 2
	(1) Section 56B(2)(c), ‘section 49(5)’—	3
	<i>omit, insert—</i>	4
	section 49(8)	5
	(2) Section 56B(2)(c), ‘section 56A(4)’—	6
	<i>omit, insert—</i>	7
	section 56A(7)	8
Clause 30	Amendment of s 57 (EIS assessment report)	9
	Section 57(1), ‘section 56A(4)’—	10
	<i>omit, insert—</i>	11
	section 56A(7)	12
Clause 31	Amendment of s 63 (Disclosure of relevant documents or information)	13 14
	Section 63(a) and (b)—	15
	<i>omit, insert—</i>	16
	(a) is mentioned in this part; or	17
	(b) is required to be given to the chief executive under this part; or	18 19
	(c) relates to the project or the process under this part.	20 21
Clause 32	Amendment of s 64 (Making of inquiry does not of itself alter EIS process)	22 23
	Section 64, note—	24
	<i>omit.</i>	25

[s 33]

Clause 33	Amendment of s 112 (Other key definitions for ch 5)	1
	Section 112, definition <i>eligibility criteria</i> —	2
	<i>omit, insert</i> —	3
	<i>eligibility criteria</i> , for an environmentally relevant activity, means eligibility criteria that are in effect for the activity under—	4
	(a) an ERA standard; or	5
	(b) section 707A or 707B.	6
Clause 34	Amendment of s 136 (When does application stage end)	7
	Section 136(b)—	8
	<i>omit, insert</i> —	9
	(b) otherwise, the earlier of the following—	10
	(i) if the administering authority is satisfied the requirements under the application stage have been complied with—when the administering authority becomes satisfied the requirements have been complied with;	11
	(ii) 10 business days after the administering authority receives the application.	12
Clause 35	Amendment of s 148 (When does information stage end)	13
	Section 148(b)—	14
	<i>omit, insert</i> —	15
	(b) if an information request has not been made, the earlier of the following—	16
	(i) when the administering authority decides not to make an information request;	17
	(ii) the information request period has ended.	18

Clause 36	Amendment of s 165 (When does decision stage start—general)	1 2
	Section 165(1), ‘the day after’—	3
	<i>omit, insert—</i>	4
	when	5
Clause 37	Amendment of s 207 (Conditions that may be imposed)	6
	Section 207—	7
	<i>insert—</i>	8
	(4) Also, a condition imposed on an authority may restrict, or impose requirements on, the carrying out of the relevant activity.	9 10 11
Clause 38	Amendment of s 213 (Amendment of environmental authorities to reflect new standard conditions)	12 13
	Section 213(1)(b) and (c)—	14
	<i>omit, insert—</i>	15
	(b) after the existing authority is issued, the chief executive makes an ERA standard providing for standard conditions for the activity; and	16 17 18 19
	(c) the ERA standard states that the standard conditions apply to existing authorities that are subject to standard conditions for the activity; and	20 21 22 23
Clause 39	Amendment of s 223 (Definitions for pt 7)	24
	(1) Section 223—	25
	<i>insert—</i>	26
	<i>condition conversion</i> , for an environmental authority, means an amendment replacing all of the conditions of the authority with the standard	27 28 29

[s 40]

	conditions for the environmentally relevant activity to which the authority relates.	1 2
	<i>minor amendment</i> , for an environmental authority, means an amendment that is—	3 4
	(a) a condition conversion; or	5
	(b) a minor amendment (threshold).	6
(2)	Section 223, definition <i>minor amendment</i> not inserted under subsection (1), after ‘ <i>amendment</i> ’—	7 8
	<i>insert</i> —	9
	(threshold)	10
(3)	Section 223, definition <i>minor amendment (threshold)</i> , paragraph (a)—	11 12
	<i>omit, insert</i> —	13
	(a) is not a change to a condition identified in the authority as a standard condition, other than—	14 15 16
	(i) a change that is a condition conversion; or	17 18
	(ii) a change that is not a condition conversion but that replaces a standard condition of the authority with a standard condition for the environmentally relevant activity to which the authority relates; and	19 20 21 22 23 24
Clause 40	Amendment of s 226 (Requirements for amendment application generally)	25 26
	Section 226—	27
	<i>insert</i> —	28
	(3) Also, subsection (1)(d) to (f) and (i) to (n) does not apply to an application for a condition conversion.	29 30 31

Clause 41	Insertion of new ch 5, pt 7, div 2A	1
	Chapter 5, part 7—	2
	<i>insert—</i>	3
	Division 2A	4
	Provision for particular amendment applications	5
	227A Early refusal of particular amendment applications and requirement to replace environmental authority	6
		7
		8
	(1) This section applies to an amendment application if the proposed amendment would change a condition imposed under section 204 on the environmental authority to which the application relates.	9 10 11 12 13
	(2) The administering authority may, within 10 business days after receiving the amendment application, refuse the application under this section.	14 15 16 17
	(3) Also, if the administering authority refuses the application, the authority may require the holder of the environmental authority to make a site-specific application for a new environmental authority under part 2 to replace the environmental authority.	18 19 20 21 22 23
	(4) However, section 314(3) to (7) applies to the requirement as if a reference to the holder of the environmental authority were a reference to the applicant.	24 25 26 27
	(5) The administering authority must give the applicant written notice of any refusal under subsection (2).	28 29 30
	(6) Divisions 3 to 5 do not apply to the amendment application if the administering authority refuses the application under this section.	31 32 33

[s 42]

Clause 42	Insertion of new s 227B	1
	Chapter 5, part 7, division 3—	2
	<i>insert—</i>	3
	227B Amendment applications to which div 3 does not apply	4
		5
	This division does not apply to an amendment application for a condition conversion.	6
		7
Clause 43	Amendment of s 240 (Deciding amendment application)	8
	Section 240(1)—	9
	<i>omit, insert—</i>	10
	(1) The administering authority must decide either to approve or refuse the application—	11
		12
	(a) if the application is for a condition conversion—within 10 business days after the application is received; or	13
		14
		15
	(b) otherwise—within 10 business days after notice of the assessment level decision is given to the applicant.	16
		17
		18
Clause 44	Amendment of s 241 (Criteria for deciding amendment application)	19
		20
	Section 241, after ‘application,’—	21
	<i>insert—</i>	22
	other than an application for a condition conversion,	23
Clause 45	Amendment of s 242 (Steps after deciding amendment application)	24
		25
	Section 242(3), ‘10 business days’—	26
	<i>omit, insert—</i>	27
	5 business days	28

Clause 46	Amendment of ch 5, pt 8, hdg (Amalgamating environmental authorities)	1
	Chapter 5, part 8, heading, after ‘Amalgamating’—	2
	<i>insert</i> —	3
	and de-amalgamating	4
		5
Clause 47	Amendment of s 243 (Definitions for pt 8)	6
	Section 243—	7
	<i>insert</i> —	8
	<i>amalgamated environmental authority</i> see	9
	section 245(1).	10
	<i>de-amalgamation application</i> means an	11
	application made under section 250A.	12
	<i>transfer tenure</i> see section 250A(1)(iii).	13
Clause 48	Insertion of new ch 5, pt 8, div 1A, hdg	14
	After section 244—	15
	<i>insert</i> —	16
	Division 1A Amalgamating	17
	environmental authorities	18
Clause 49	Amendment of ch 5, pt 8, div 3, hdg (Miscellaneous provisions)	19
	Chapter 5, part 8, division 3, heading, after ‘provisions’—	20
	<i>insert</i> —	21
	for amalgamation applications	22
		23
Clause 50	Insertion of new ch 5, pt 8, div 4	24
	Chapter 5, part 8—	25
	<i>insert</i> —	26

[s 50]

Division 4	De-amalgamating environmental authorities	1 2
250A	Who may apply for de-amalgamation	3
(1)	The holder of a relevant authority may make an application to the administering authority for the de-amalgamation of the authority if—	4 5 6
(a)	the authority is not for a resource project; or	7
(b)	the authority is for a resource project and—	8
(i)	the project is no longer being carried out as a single integrated operation; or	9 10
(ii)	the existing holder is proposing to no longer carry out the project as a single integrated operation; or	11 12 13
(iii)	the existing holder is proposing to transfer to another person a resource tenure (a <i>transfer tenure</i>) to which the authority relates.	14 15 16 17
(2)	In this section—	18
	<i>relevant authority</i> means—	19
(a)	an amalgamated environmental authority; or	20
(b)	an environmental authority issued for an ERA project.	21 22
250B	Requirements for de-amalgamation application	23 24
	A de-amalgamation application must—	25
(a)	be made in the approved form; and	26
(b)	if the application relates to a resource project—be accompanied by a declaration by the applicant that—	27 28 29

-
- (i) the project is no longer being carried out as a single integrated operation; or
 - (ii) the existing holder is proposing to no longer carry out the project as a single integrated operation; or
 - (iii) the existing holder is proposing to transfer to another person a resource tenure to which the authority relates; and
- (c) be accompanied by the fee prescribed by a regulation.

250C De-amalgamation

- Within 15 business days after receiving a de-amalgamation application that complies with section 250B, the administering authority must—
- (a) de-amalgamate the relevant authority to give effect to the de-amalgamation; and
 - (b) issue 2 or more environmental authorities to the applicant; and
 - (c) include a copy of each environmental authority issued under paragraph (b) in the relevant register.

250D When de-amalgamation takes effect

- The de-amalgamation of an environmental authority takes effect—
- (a) if it relates to a transfer tenure—when the transfer tenure is transferred; or
 - (b) if it relates to a relevant authority for a resource project for which the existing holder proposes to no longer carry out the project as a single integrated operation—when the existing holder stops

[s 51]

	carrying out the project as a single	1
	integrated operation; or	2
	(c) otherwise—when the administering	3
	authority issues 2 or more environmental	4
	authorities to the applicant under section	5
	250C(b).	6
Clause 51	Amendment of s 278 (Cancellation or suspension by	7
	administering authority)	8
	Section 278(2), after paragraph (b)—	9
	<i>insert—</i>	10
	(baa)an application by the environmental	11
	authority holder made under section 302 to	12
	increase the amount of financial assurance	13
	given for the authority has been approved	14
	but the amount of the increase of the	15
	financial assurance has not been given;	16
Clause 52	Amendment of s 284B (Requirements for suspension	17
	application)	18
	Section 284B(2)—	19
	<i>omit, insert—</i>	20
	(2) The nominated period of the proposed	21
	suspension must be for 1, 2 or 3 years from the	22
	next anniversary day for the environmental	23
	authority.	24
Clause 53	Amendment of s 293 (New holder must give financial	25
	assurance before acting under environmental authority	26
	or small scale mining tenure)	27
	Section 293(2), penalty, ‘1665 penalty units’—	28
	<i>omit, insert—</i>	29
	4500 penalty units	30

Clause 54	Amendment of s 295 (Deciding amount and form of financial assurance)	1 2
	Section 295(3)(a)—	3
	<i>omit, insert—</i>	4
	(a) any relevant regulatory requirements; and	5
Clause 55	Amendment of s 302 (Who may apply)	6
	(1) Section 302(1)(a), from ‘as’ to ‘296’—	7
	<i>omit.</i>	8
	(2) Section 302—	9
	<i>insert—</i>	10
	(3) To remove any doubt, it is declared that an application to amend financial assurance may be to decrease or increase the amount.	11 12 13
Clause 56	Amendment of s 303 (Requirements for application)	14
	Section 303(b)(i), from ‘stated’ to ‘296’—	15
	<i>omit.</i>	16
Clause 57	Amendment of s 307 (Replenishment of financial assurance)	17 18
	(1) Section 307(1)(a), ‘for a resource activity, other than a mining activity,’—	19 20
	<i>omit.</i>	21
	(2) Section 307(2)(b), from ‘so’ to ‘296’—	22
	<i>omit, insert—</i>	23
	to the amount that was held by the administering authority before the financial assurance started to be realised	24 25 26

[s 58]

Clause 58	Amendment of s 309 (Particular requirement for annual return for CSG environmental authority)	1 2
	Section 309(1)—	3
	<i>omit, insert—</i>	4
	(1) This section applies to the holder of an environmental authority for a CSG activity if—	5 6
	(a) the activity is an ineligible ERA; and	7
	(b) the holder of the authority is required to give an annual return under section 308(3)(a).	8 9
Clause 59	Omission of s 309A (Particular requirement for annual return for existing petroleum tenure under P&G Act)	10 11
	Section 309A—	12
	<i>omit.</i>	13
Clause 60	Amendment of s 314 (Requirement to replace environmental authority if non-compliance with eligibility criteria)	14 15 16
	(1) Section 314(2)(a), ‘part 2;’—	17
	<i>omit, insert—</i>	18
	part 2 to replace the environmental authority;	19
	(2) Section 314(7), penalty, ‘1665 penalty units’—	20
	<i>omit, insert—</i>	21
	4500 penalty units	22
Clause 61	Replacement of ch 5A, pts 1 and 2	23
	Chapter 5A, parts 1 and 2—	24
	<i>omit, insert—</i>	25

Part 1	ERA standards	1
317 Definitions for pt 1		2
In this part—		3
<i>ERA standard</i> means a standard made under section 318.		4 5
<i>consultation period</i> , for an ERA standard, see section 318A(1)(b)(ii).		6 7
<i>relevant existing authority</i> , for an ERA standard, means an environmental authority—		8 9
(a) issued before the ERA standard is made; and		10 11
(b) subject to conditions identified in the authority as standard conditions for the environmentally relevant activity to which the ERA standard relates.		12 13 14 15
318 Chief executive may make ERA standard		16
(1) The chief executive may make a standard for—		17
(a) the eligibility criteria for an environmentally relevant activity; and		18 19
(b) the standard conditions for an environmentally relevant activity.		20 21
(2) An ERA standard mentioned in subsection (1) may state that the standard conditions apply to relevant existing authorities.		22 23 24
318A Notice of proposed ERA standards		25
(1) Before the chief executive makes an ERA standard, the chief executive must publish the following on the department’s website—		26 27 28
(a) a copy of the proposed ERA standard;		29

[s 61]

- (b) a notice stating— 1
- (i) that a person may make a submission 2
to the chief executive about the 3
proposed ERA standard; and 4
 - (ii) the period, of at least 30 business days, 5
(the *consultation period*) during which 6
a submission may be made; and 7
 - (iii) how to make a submission; and 8
 - (iv) if standard conditions provided for 9
under the proposed ERA standard will 10
apply to relevant existing 11
authorities—that the standard 12
conditions provided for under the 13
proposed ERA standard will apply to 14
relevant existing authorities. 15
- (2) The chief executive must ensure the documents 16
mentioned in subsection (1) are published on the 17
department’s website throughout the consultation 18
period. 19
- (3) Subsections (4) and (5) apply if standard 20
conditions provided for under the proposed ERA 21
standard will apply to relevant existing 22
authorities. 23
- Note—* 24
- The administering authority may amend a relevant 25
existing authority to reflect new standard conditions in 26
particular circumstances. See section 213. 27
- (4) The chief executive must give written notice 28
about the proposed ERA standard to each holder 29
of a relevant existing authority that is in effect 30
immediately before the consultation period starts 31
under subsection (1) and for which the proposed 32
standard conditions in the ERA standard will 33
apply. 34
- (5) A notice under subsection (4) must state— 35

-
- (a) that the chief executive proposes to make an ERA standard that will apply to the holder's relevant existing authority; and
 - (b) details of the department's website address; and
 - (c) that the holder may make a submission to the chief executive about the proposed ERA standard during the consultation period.

318B Consideration of submissions 9

The chief executive must consider all submissions made during the consultation period before deciding whether to make an ERA standard. 10
11
12

318C Publication of ERA standard 13

The chief executive must publish a copy of each ERA standard made by the chief executive on the department's website. 14
15
16

318D Approval of ERA standard by regulation 17

An ERA standard takes effect when it is approved by a regulation. 18
19

318DA Minor amendment of ERA standard 20

- (1) The chief executive may make a minor amendment of an ERA standard by publishing a copy of the amended ERA standard on the department's website. 21
22
23
24
- (2) The amended ERA standard takes effect when it is approved by a regulation. 25
26
- (3) In this section— 27
minor amendment, of an ERA standard, means 28
an amendment of the standard— 29

[s 62]

	(a) to change a title or department name; or	1
	(b) to correct a spelling or grammatical error; or	2
	(c) to change terminology that has no effect on the operation of the standard; or	3 4
	(d) to make another change the chief executive is satisfied is not a change of substance.	5 6
	<i>Note—</i>	7
	An amendment of an ERA standard other than a minor amendment is made by the making of a new ERA standard.	8 9 10
Clause 62	Amendment of s 323 (Administering authority may require environmental audit about other matters)	11 12
	(1) Section 323(1)(a), ‘or a transitional environmental program’—	13 14
	<i>omit, insert—</i>	15
	, a transitional environmental program or an enforceable undertaking	16 17
	(2) Section 323(1)(b)(iv)—	18
	<i>omit, insert—</i>	19
	(iv) a provision of chapter 8, part 3E or 3F.	20
Clause 63	Amendment of s 330 (What is a transitional environmental program)	21 22
	Section 330—	23
	<i>insert—</i>	24
	(2) However, a transitional environmental program must not be used to achieve compliance with an enforceable undertaking.	25 26 27
Clause 64	Amendment of s 331 (Content of program)	28
	Section 331, after ‘must’—	29

	<i>insert—</i>	1
	be in the approved form and	2
Clause 65	Amendment of s 357 (Power of Court to make order pending decision on application)	3
	Section 357(5), penalty—	4
	<i>omit, insert—</i>	5
	Maximum penalty for subsection (5)—	6
	(a) if the offence is committed wilfully—6250 penalty units or 5 years imprisonment; or	7
	(b) otherwise—4500 penalty units.	8
		9
		10
Clause 66	Insertion of new s 357AAA	11
	Chapter 7, part 4A, before section 357A—	12
	<i>insert—</i>	13
	357AAA Definition for pt 4A	14
	In this part—	15
	<i>applicable event</i> see section 357A.	16
Clause 67	Amendment of s 357A (What is an <i>applicable event</i>)	17
	Section 357A, from ‘that’—	18
	<i>omit, insert—</i>	19
	that—	20
	(a) was not foreseen; or	21
	(b) was foreseen but, because of a low probability of occurring, it was not considered reasonable to impose a condition on the authority to deal with the event or series of events;	22
		23
		24
		25
		26

[s 68]

when particular conditions were imposed on an 1
environmental authority, when a transitional 2
environmental program was approved, or when 3
amendments to an approved transitional 4
environmental program were approved. 5

**Clause 68 Amendment of s 357B (Who may apply for temporary 6
emissions licence) 7**

(1) Section 357B(1)— 8

omit, insert— 9

(1) A person may apply for a licence (a *temporary 10
emissions licence*) that permits the temporary 11
relaxation or modification of— 12

(a) particular conditions of an environmental 13
authority; or 14

(b) particular requirements or conditions of a 15
transitional environmental program; 16

that relate to the release of a contaminant into the 17
environment in response to an applicable event. 18

(2) Section 357B(2)— 19

omit, insert— 20

(2) A person may apply for a temporary emissions 21
licence only if the person is the holder of— 22

(a) an environmental authority; or 23

(b) a transitional environmental program. 24

Clause 69 Amendment of s 357G (Temporary emissions licence) 25

(1) Section 357G(1)(c)— 26

omit, insert— 27

(c) for an environmental authority—the 28
conditions of the environmental authority 29
that the licence overrides; 30

	(ca) for a transitional environmental program—the requirements or conditions of the transitional environmental program that the licence overrides;	1 2 3 4
(2)	Section 357G(1)(ca) and (d)— <i>renumber</i> as section 357G(1)(d) and (e).	5 6
(3)	Section 357G(2), ‘the activity’— <i>omit, insert</i> — an act, or to make an omission,	7 8 9
Clause 70	Amendment of s 357I (Failure to comply with conditions of licence)	10 11
	Section 357I, penalty— <i>omit, insert</i> —	12 13
	Maximum penalty—	14
	(a) if the offence is committed wilfully—6250 penalty units or 5 years imprisonment; or	15 16
	(b) otherwise—4500 penalty units.	17
Clause 71	Amendment of s 358 (When order may be issued)	18
(1)	Section 358(d)— <i>insert</i> —	19 20
	(xii) an enforceable undertaking; or	21
(2)	Section 358(e)(iv)— <i>omit, insert</i> —	22 23
	(iv) a provision of chapter 8, part 3E or 3F.	24
Clause 72	Amendment of s 361 (Offence not to comply with order)	25
(1)	Section 361(1), penalty—	26

[s 73]

omit, insert— 1

Maximum penalty—6250 penalty units or 5 years
imprisonment. 2
3

(2) Section 361(2), penalty, ‘1665 penalty units’— 4

omit, insert— 5

4500 penalty units 6

Clause 73 Amendment of s 363A (Prescribed provisions) 7

(1) Section 363A(1)(a), after ‘section’— 8

insert— 9

426, 10

(2) Section 363A(1)(a), editor’s note— 11

omit. 12

**Clause 74 Amendment of s 363E (Offence not to comply with a
direction notice)** 13
14

Section 363E, penalty— 15

omit, insert— 16

Maximum penalty— 17

(a) if the offence is committed wilfully—1665
penalty units; or 18
19

(b) otherwise—600 penalty units. 20

**Clause 75 Amendment of s 363I (Offence not to comply with
clean-up notice)** 21
22

Section 363I(1), penalty— 23

omit, insert— 24

Maximum penalty— 25

(a) if the offence is committed wilfully—6250
penalty units or 5 years imprisonment; or 26
27

	(b) otherwise—4500 penalty units.	1
Clause 76	Amendment of s 426 (Environmental authority required for particular environmentally relevant activities)	2
	Section 426(1), penalty, ‘1665 penalty units’—	3
	<i>omit, insert—</i>	4
	4500 penalty units	5
Clause 77	Amendment of s 430 (Contravention of condition of environmental authority)	6
	(1) Section 430(2), penalty—	7
	<i>omit, insert—</i>	8
	Maximum penalty—6250 penalty units or 5 years imprisonment.	9
	(2) Section 430(3), penalty, ‘1665 penalty units’—	10
	<i>omit, insert—</i>	11
	4500 penalty units	12
Clause 78	Amendment of s 432 (Contravention of requirement of program)	13
	(1) Section 432(1), penalty—	14
	<i>omit, insert—</i>	15
	Maximum penalty—6250 penalty units or 5 years imprisonment.	16
	(2) Section 432(2), penalty, ‘835 penalty units’—	17
	<i>omit, insert—</i>	18
	4500 penalty units	19

[s 79]

Clause 79	Amendment of s 432A (Contravention of condition of approval)	1
		2
	Section 432A, penalty—	3
	<i>omit, insert—</i>	4
	Maximum penalty—	5
	(a) if the contravention is done wilfully—6250	6
	penalty units or 5 years imprisonment; or	7
	(b) otherwise—4500 penalty units.	8
Clause 80	Amendment of s 434 (Contravention of plan)	9
	(1) Section 434(1), penalty—	10
	<i>omit, insert—</i>	11
	Maximum penalty—6250 penalty units or 5 years	12
	imprisonment.	13
	(2) Section 434(2), penalty, ‘835 penalty units’—	14
	<i>omit, insert—</i>	15
	4500 penalty units	16
Clause 81	Amendment of s 435A (Offence to contravene prescribed conditions for particular activities)	17
		18
	(1) Section 435A(2), penalty, ‘300 penalty units’—	19
	<i>omit, insert—</i>	20
	6250 penalty units or 5 years imprisonment	21
	(2) Section 435A(3), penalty, ‘250 penalty units’—	22
	<i>omit, insert—</i>	23
	4500 penalty units	24
Clause 82	Amendment of s 437 (Offences of causing serious environmental harm)	25
		26
	(1) Section 437(1), penalty, ‘4165 penalty units’—	27

	<i>omit, insert—</i>	1
	6250 penalty units	2
(2)	Section 437(2), penalty, ‘1665 penalty units’—	3
	<i>omit, insert—</i>	4
	4500 penalty units	5
Clause 83	Amendment of s 438 (Offences of causing material environmental harm)	6
		7
(1)	Section 438(1), penalty, ‘1665 penalty units’—	8
	<i>omit, insert—</i>	9
	4500 penalty units	10
(2)	Section 438(2), penalty, ‘835 penalty units’—	11
	<i>omit, insert—</i>	12
	1665 penalty units	13
Clause 84	Amendment of s 440 (Offence of causing environmental nuisance)	14
		15
(1)	Section 440(1), penalty, ‘835 penalty units’—	16
	<i>omit, insert—</i>	17
	1665 penalty units	18
(2)	Section 440(2), penalty, ‘300 penalty units’—	19
	<i>omit, insert—</i>	20
	600 penalty units	21
Clause 85	Amendment of s 440Q (Offence of contravening a noise standard)	22
		23
	Section 440Q(1), penalty—	24
	<i>omit, insert—</i>	25
	Maximum penalty—	26

[s 86]

	(a) if the contravention is done wilfully—1665 penalty units; or	1 2
	(b) otherwise—600 penalty units.	3
Clause 86	Amendment of s 440ZG (Depositing prescribed water contaminants in waters and related matters)	4 5
	Section 440ZG, penalty—	6
	<i>omit, insert—</i>	7
	Maximum penalty—	8
	(a) if the deposit or release is done wilfully—1665 penalty units; or	9 10
	(b) otherwise—600 penalty units.	11
Clause 87	Omission of ch 8, pt 3D (Offences relating to releases from boats into non-coastal waters)	12 13
	Chapter 8, part 3D—	14
	<i>omit.</i>	15
Clause 88	Amendment of s 440ZL (Sale of solid fuel-burning equipment for use in residential premises and related matters)	16 17 18
	Section 440ZL(5), penalty—	19
	<i>omit, insert—</i>	20
	Maximum penalty—	21
	(a) if the contravention is done wilfully—1665 penalty units; or	22 23
	(b) otherwise—600 penalty units.	24

Clause 89	Amendment of s 440ZM (Permitted concentration of sulfur in liquid fuel for use in stationary fuel-burning equipment)	1
		2
		3
	(1) Section 440ZM(1), penalty, ‘300 penalty units’—	4
	<i>omit, insert—</i>	5
	600 penalty units	6
	(2) Section 440ZM(2), penalty—	7
	<i>omit, insert—</i>	8
	Maximum penalty—	9
	(a) if the offence is committed wilfully—1665	10
	penalty units; or	11
	(b) otherwise—600 penalty units.	12
Clause 90	Amendment of s 442 (Offence of releasing prescribed contaminant)	13
		14
	Section 442(1), penalty—	15
	<i>omit, insert—</i>	16
	Maximum penalty—	17
	(a) if the offence is committed wilfully—1665	18
	penalty units; or	19
	(b) otherwise—600 penalty units.	20
Clause 91	Replacement of s 443 (Offence to place contaminant where environmental harm or nuisance may be caused)	21
		22
	Section 443—	23
	<i>omit, insert—</i>	24
	443 Offence to place contaminant where serious or material environmental harm may be caused	25
		26
	A person must not cause or allow a contaminant to be	27
	placed in a position where it could reasonably be	28

[s 92]

	expected to cause serious or material environmental harm.	1 2
	Maximum penalty—	3
	(a) if the offence is committed wilfully—4500 penalty units or 2 years imprisonment; or	4 5
	(b) otherwise—1655 penalty units.	6
	443A Offence to place contaminant where environmental nuisance may be caused	7 8
	A person must not cause or allow a contaminant to be placed in a position where it could reasonably be expected to cause environmental nuisance.	9 10 11
	Maximum penalty—	12
	(a) if the offence is committed wilfully—1655 penalty units; or	13 14
	(b) otherwise—600 penalty units.	15
Clause 92	Amendment of s 450 (Protection from liability)	16
	Section 450—	17
	<i>insert—</i>	18
	(4) This section does not apply to an official if the official is a State employee within the meaning of the <i>Public Service Act 2008</i> , section 26B(4).	19 20 21
Clause 93	Amendment of s 452 (Entry of place—general)	22
	Section 452(1)—	23
	<i>insert—</i>	24
	(ea) it is a place to which an enforceable undertaking relates and the entry is made when—	25 26 27

	(i) the activity to which the undertaking relates is being carried out; or	1 2
	(ii) the place is open for conduct of business; or	3 4
	(iii) the place is otherwise open for entry; or	5
Clause 94	Amendment of s 462 (Procedure after seizure of evidence)	6 7
	Section 462(5)(a) and (b), ‘6 months’—	8
	<i>omit, insert—</i>	9
	1 year	10
Clause 95	Amendment of s 478 (Failure to comply with authorised person’s direction in emergency)	11 12
	Section 478, penalty—	13
	<i>omit, insert—</i>	14
	Maximum penalty—	15
	(a) if the offence is committed wilfully—6250 penalty units or 5 years imprisonment; or	16 17
	(b) otherwise—4500 penalty units.	18
Clause 96	Amendment of s 480 (False or misleading documents)	19
	Section 480(1), penalty, ‘1665 penalty units’—	20
	<i>omit, insert—</i>	21
	4500 penalty units	22
Clause 97	Amendment of s 480A (Incomplete documents)	23
	Section 480A(2), penalty, ‘1665 penalty units’—	24
	<i>omit, insert—</i>	25
	4500 penalty units	26

[s 98]

Clause 98	Amendment of s 481 (False or misleading information)	1
	Section 481(1), penalty, ‘1665 penalty units’—	2
	<i>omit, insert—</i>	3
	4500 penalty units	4
Clause 99	Amendment of s 493A (When environmental harm or related acts are unlawful)	5
	Section 493A(6)—	6
	<i>insert—</i>	7
	<i>Note—</i>	8
	See also section 508 for circumstances affecting proceedings for a contravention for which an enforceable undertaking has been given.	9
		10
		11
		12
Clause 100	Amendment of s 497 (Limitation on time for starting summary proceedings)	13
	Section 497—	14
	<i>insert—</i>	15
	(c) if an enforceable undertaking has been made in relation to the offence—within 1 year after—	16
	(i) the enforceable undertaking is contravened; or	17
	(ii) the administering authority becomes aware that the enforceable undertaking has been contravened; or	18
	(iii) the administering authority has agreed under section 509 to the withdrawal of the enforceable undertaking.	19
		20
		21
		22
		23
		24
		25
		26
		27
Clause 101	Amendment of s 498 (Notice of defence)	28
	Section 498(1), after ‘chapter 8’—	29

insert— 1
or section 493A(3) 2

Clause 102 Insertion of new ch 10, pt 5 3

Chapter 10— 4

insert— 5

Part 5 Enforceable undertakings 6
7

507 Administering authority may accept enforceable undertakings 8
9

- (1) The administering authority may accept a written undertaking (an *enforceable undertaking*) made by a person in relation to a contravention or alleged contravention by the person of this Act, other than an indictable offence. 10
11
12
13
14
- (2) An enforceable undertaking must be— 15
 - (a) in the approved form; and 16
 - (b) accompanied by the fee prescribed by regulation. 17
18
- (3) The administering authority must give the person written notice of— 19
20
 - (a) the administering authority's decision to accept or reject the enforceable undertaking; 21
22
and 23
 - (b) the reasons for the decision. 24
- (4) The administering authority must not accept the enforceable undertaking unless the administering authority reasonably believes that the undertaking will— 25
26
27
28
 - (a) secure compliance with the Act; and 29

[s 102]

- (b) enhance the protection of the environment. 1
- (5) If the administering authority decides to accept 2
the enforceable undertaking, the administering 3
authority must publish a copy of the undertaking 4
on the administering authority's website. 5
- (6) The administering authority may accept an 6
enforceable undertaking in relation to a 7
contravention or alleged contravention before 8
proceedings in relation to the contravention end. 9
- (7) If the administering authority accepts an 10
enforceable undertaking before the proceedings 11
end, the administering authority must take all 12
reasonable steps to have the proceedings 13
discontinued as soon as possible. 14

508 Effect of enforceable undertaking 15

- (1) An enforceable undertaking takes effect when the 16
administering authority gives the person who 17
made the undertaking notice of the decision to 18
accept the undertaking. 19
- (2) No proceedings for a contravention or alleged 20
contravention of this Act may be taken against 21
the person in relation to the contravention that is 22
the subject of the undertaking if the person is 23
complying, or has complied, with the 24
undertaking. 25
- (3) The making of an enforceable undertaking does 26
not constitute an admission of guilt by the person 27
making the undertaking. 28

**509 Withdrawal or variation of enforceable 29
undertaking** 30

- (1) A person who has made an enforceable 31
undertaking may at any time, with the written 32
agreement of the administering authority— 33

-
- (a) withdraw the undertaking; or 1
 - (b) vary the undertaking. 2
 - (2) However, the provisions of the undertaking may 3
not be varied to provide for a different alleged 4
contravention of the Act. 5
 - (3) The administering authority must publish notice 6
of the withdrawal or variation of an enforceable 7
undertaking on the administering authority's 8
website. 9

510 Contravention of enforceable undertaking 10

- (1) The administering authority may apply to a 11
Magistrates Court for an order if a person 12
contravenes an enforceable undertaking. 13
- (2) If the court is satisfied that the person who made 14
the enforceable undertaking has contravened the 15
undertaking, the court, in addition to imposing 16
any penalty, may make 1 or both of the following 17
orders— 18
 - (a) an order directing the person to comply with 19
the undertaking; 20
 - (b) an order discharging the undertaking. 21
- (3) Also, the court may make any other order that the 22
court considers appropriate in the circumstances, 23
including an order directing the person to pay to 24
the State— 25
 - (a) the costs of the proceedings; and 26
 - (b) the reasonable costs of the administering 27
authority in monitoring compliance with the 28
enforceable undertaking in the future. 29
- (4) Nothing in this section prevents proceedings 30
being taken for the contravention or alleged 31
contravention of this Act to which the 32
enforceable undertaking relates. 33

[s 103]

Clause 103	Amendment of s 540 (Registers to be kept by administering authority)	1 2
(1)	Section 540(1)(a)—	3
	<i>insert—</i>	4
	(v) annual returns required under section 308(3)(a) and any evaluation required under section 309;	5 6 7
(2)	Section 540(1), after paragraph (a)—	8
	<i>insert—</i>	9
	(aa) application documents for an application for an environmental authority, including information requests and responses to information requests;	10 11 12 13
(3)	Section 540(1)(c)(iii)—	14
	<i>omit.</i>	15
(4)	Section 540(1)—	16
	<i>insert—</i>	17
	(eb) documents required to be given under—	18
	(i) a condition of an environmental authority; or	19 20
	(ii) a transitional environmental program or a condition of a transitional environmental program; or	21 22 23
	(iii) a condition of a temporary emissions licence;	24 25
(5)	Section 540(1)—	26
	<i>insert—</i>	27
	(ja) accepted enforceable undertakings;	28

Clause 104	Amendment of s 548 (Chief executive may make guidelines for administering authorities)	1 2
	Section 548(1) and (2)—	3
	<i>omit, insert—</i>	4
	(1) The chief executive may make guidelines about—	5 6
	(a) how an administering authority complies with a regulatory requirement; or	7 8
	(b) when an administering authority may accept enforceable undertakings.	9 10
	(2) The administering authority must follow any guidelines made by the chief executive.	11 12
Clause 105	Amendment of s 574M (False or misleading information about reports or certification)	13 14
	Section 574M(1), penalty, ‘1665 penalty units’—	15
	<i>omit, insert—</i>	16
	4500 penalty units	17
Clause 106	Amendment of s 699 (Existing financial assurance requirement)	18 19
	(1) Section 699(3), penalty, ‘1665 penalty units’—	20
	<i>omit, insert—</i>	21
	4500 penalty units	22
	(2) Section 699—	23
	<i>insert—</i>	24
	(4) The administering authority may amend the environmental authority to which the requirement applies to impose a condition about the financial assurance.	25 26 27 28

[s 107]

	(5)	The administering authority must give written notice of the amendment to the environmental authority holder.	1 2 3
Clause 107		Insertion of new ch 13, pt 23	4
		Chapter 13—	5
		<i>insert—</i>	6
		Part 23	7
		Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2014	8 9 10 11
		Division 1	12
		Preliminary	
		720 Definitions for pt 23	13
		In this part—	14
		<i>amending Act</i> means the <i>Environmental Protection and Other Legislation Amendment Act 2014</i> .	15 16 17
		<i>former</i> , in relation to a provision, means the provision as in force immediately before the amendment of the provision under the amending Act.	18 19 20 21

Division 2	Transitional provisions for amendments commencing by assent	1 2 3
721 Submission of EIS		4
(1)	This section applies if, before the commencement, final terms of reference have been given to a proponent under section 46.	5 6 7
(2)	Former section 47 continues to apply for the submission of an EIS by the proponent.	8 9
722 Decision on whether EIS may proceed		10
(1)	This section applies if, before the commencement—	11 12
(a)	a proponent has submitted an EIS; and	13
(b)	the chief executive has not made a decision under former section 49.	14 15
(2)	Section 49 applies to the EIS application.	16
723 Proponent may resubmit EIS		17
(1)	This section applies if—	18
(a)	before the commencement—	19
(i)	a proponent has submitted an EIS; and	20
(ii)	the chief executive has not made a decision under former section 49; and	21 22
(b)	after the commencement, the chief executive decides, under section 49, to refuse to allow the EIS to proceed and the proponent—	23 24 25
(i)	does not apply, under section 50, to the Minister to review the decision; or	26 27

[s 107]

(ii)	applies, under section 50, to the Minister to review the decision and the Minister confirms the decision.	1 2 3
(2)	The proponent may resubmit the EIS, with changes, to the chief executive under section 49A.	4 5 6
724	Assessment of adequacy of response to submission and submitted EIS	7 8
(1)	Subsection (2) applies if—	9
(a)	before the commencement, a person makes a submission to the chief executive about a submitted EIS; and	10 11 12
(b)	after the commencement, the chief executive accepts the submission.	13 14
(2)	Section 56A applies to the EIS.	15
(3)	Subsection (4) applies if the chief executive decides, under section 56A, to refuse to allow the EIS to proceed and the proponent—	16 17 18
(a)	does not apply, under section 56B, to the Minister to review the decision; or	19 20
(b)	applies, under section 56B, to the Minister to review the decision and the Minister confirms the decision.	21 22 23
(4)	Section 56AA applies in relation to the submitted EIS.	24 25
725	Suspension application	26
(1)	This section applies to a suspension application—	27 28
(a)	made, but not decided, before the commencement; and	29 30

(b)	for which the nominated period is not 1, 2 or 3 years.	1 2
(2)	The nominated period of the proposed suspension is taken to be the next anniversary day of the environmental authority occurring after the nominated period.	3 4 5 6
	<i>Example—</i>	7
	If the nominated period for the proposed suspension is 18 months the nominated period is taken to be 2 years.	8 9
(3)	Subsection (2) does not prevent the holder of the environmental authority from ending the suspension under section 284G.	10 11 12
	726 ERA standards	13
(1)	This section applies to the eligibility criteria for an environmentally relevant activity and standard conditions in effect under the unamended Act immediately before the commencement.	14 15 16 17
(2)	The eligibility criteria and standard conditions are taken to be an ERA standard made under section 318.	18 19 20
(3)	In this section— <i>unamended Act</i> means this Act as in force immediately before the commencement.	21 22 23
Clause 108	Amendment of sch 4 (Dictionary)	24
(1)	Schedule 4, definitions <i>coastal waters, consultation period, EIS process, harmful substance, MARPOL, non-coastal waters, noxious liquid substance, oil, relevant existing authority, sewage and standard conditions—</i> <i>omit.</i>	25 26 27 28 29
(2)	Schedule 4— <i>insert—</i>	30 31

[s 108]

<i>amalgamated environmental authority</i> , for chapter 5, part 8, see section 243.	1 2
<i>condition conversion</i> , for chapter 5, part 7, see section 223.	3 4
<i>consultation period</i> , for chapter 5A, part 1, see section 317.	5 6
<i>de-amalgamation application</i> , for chapter 5, part 8, see section 243.	7 8
<i>EIS process</i> , for an EIS, means the process under chapter 3, part 1.	9 10
<i>enforceable undertaking</i> see section 507(1).	11
<i>ERA standard</i> , for chapter 5A, part 1, see section 317.	12 13
<i>relevant existing authority</i> , for chapter 5A, part 1, see section 317.	14 15
<i>standard conditions</i> —	16
(a) for an environmental authority—means the standard conditions to which the authority is subject; or	17 18 19
(b) for an application for an environmental authority—means the standard conditions in effect for the environmentally relevant activity to which the application relates.	20 21 22 23
<i>transfer tenure</i> , for chapter 5, part 8, see section 243.	24 25
(3) Schedule 4, definition <i>properly made submission</i> , note, ‘(Notification stage does not apply if EIS process complete)’—	26 27 28
<i>omit, insert</i> —	29
(Notification stage does not apply to particular applications)	30 31

Division 3	Amendments commencing by proclamation	1 2
Clause 109	Amendment of s 13 (Waste)	3
(1)	Section 13(1), ‘a resource approved under the Waste Reduction Act, chapter 8’—	4 5
	<i>omit, insert—</i>	6
	an end of waste resource	7
(2)	Section 13(4)—	8
	<i>omit.</i>	9
(3)	Section 13(5), ‘a resource approved under the Waste Reduction Act, chapter 8,’—	10 11
	<i>omit, insert—</i>	12
	an end of waste resource	13
(4)	Section 13(5)(b), ‘its approval under that chapter’—	14
	<i>omit, insert—</i>	15
	its use under an end of waste code or end of waste approval	16 17
(5)	Section 13(6)—	18
	<i>insert—</i>	19
	<i>end of waste approval</i> see the Waste Reduction Act, section 156.	20 21
	<i>end of waste code</i> see the Waste Reduction Act, section 156.	22 23
	<i>end of waste resource</i> means a resource under the Waste Reduction Act, section 156.	24 25
(6)	Section 13(5) and (6)—	26
	<i>renumber</i> as section 13(4) and (5).	27

[s 110]

Clause 110	Amendment of s 112 (Other key definitions for ch 5)	1
	Section 112, definitions <i>eligible ERA</i> and <i>ineligible ERA</i> —	2
	<i>omit, insert</i> —	3
	<i>eligible ERA</i> means an environmentally relevant activity that complies with the eligibility criteria in effect for the activity.	4
		5
		6
	<i>ineligible ERA</i> means an environmentally relevant activity that is not an eligible ERA.	7
		8
Clause 111	Amendment of s 122 (What is a <i>standard application</i>)	9
	Section 122—	10
	<i>insert</i> —	11
	(2) An application for an environmental authority, for an environmentally relevant activity that is carried out as part of a coordinated project, is also a <i>standard application</i> if—	12
		13
		14
		15
	(a) there are Coordinator-General's conditions—	16
		17
	(i) that relate to the activity the subject of the application; and	18
		19
	(ii) that are the same as the standard conditions for the authority or the activity; and	20
		21
		22
	(b) all proposed environmentally relevant activities for the authority are eligible ERAs.	23
		24
		25
Clause 112	Amendment of s 123 (What is a <i>variation application</i>)	26
	Section 123—	27
	<i>insert</i> —	28
	(2) An application for an environmental authority, for an environmentally relevant activity that is	29
		30

	carried out as part of a coordinated project, is	1
	also a <i>variation application</i> if—	2
	(a) there are Coordinator-General’s	3
	conditions—	4
	(i) that relate to the activity the subject of	5
	the application; and	6
	(ii) that are not the same as the standard	7
	conditions for the authority or the	8
	activity; and	9
	(b) all proposed environmentally relevant	10
	activities for the environmental authority are	11
	eligible ERAs.	12
Clause 113	Amendment of s 125 (Requirements for applications	13
	generally)	14
	(1) Section 125(1)(k)—	15
	<i>omit, insert—</i>	16
	(k) if the application is a variation application—	17
	(i) for a variation application under	18
	section 123(1)—state the standard	19
	conditions for the activity or authority	20
	the applicant seeks to change; or	21
	(ii) for a variation application under	22
	section 123(2)—state the standard	23
	conditions that are not the same as the	24
	Coordinator-General’s conditions; and	25
	(2) Section 125(2) and (3)—	26
	<i>omit, insert—</i>	27
	(2) Despite subsection (1)(l), if the application is a	28
	variation application under section 123(1), it	29
	need only include the matters mentioned in that	30
	subsection to the extent it seeks to change the	31
	standard conditions for the activity or authority.	32

[s 114]

- (3) Subsection (1)(l) does not apply for an application if—
- (a) either—
 - (i) the EIS process for an EIS for each relevant activity the subject of the application has been completed; or
 - (ii) the Coordinator-General has evaluated an EIS for each relevant activity the subject of the application and there are Coordinator-General’s conditions that relate to each relevant activity; and
 - (b) an assessment of the environmental risks of each relevant activity would be the same as the assessment in the EIS mentioned in paragraph (a)(i), or the evaluation mentioned in paragraph (a)(ii), if completed.
- (4) Also, subsection (1)(l) does not apply for a variation application under section 123(2) if the application seeks only to apply the Coordinator-General’s conditions.

- Clause 114 Amendment of s 126 (Requirements for site-specific applications—CSG activities)**
- Section 126—
- insert—*
- (3) This section does not apply for a site-specific application for a CSG activity if—
- (a) the Coordinator-General has evaluated an EIS for the CSG activity under the State Development Act; and
 - (b) there are Coordinator-General’s conditions for each relevant activity the subject of the application; and

	(c)	an assessment of the environmental risks of the activity would be the same as the evaluation mentioned in paragraph (a), if completed.	1 2 3 4
Clause 115		Amendment of s 150 (Notification stage does not apply if EIS process complete)	5 6
	(1)	Section 150, heading, ‘if EIS process complete’— <i>omit, insert—</i> to particular applications	7 8 9
	(2)	Section 150(1)(a) and (b)— <i>omit, insert—</i> (a) for an EIS under this Act—the EIS for each relevant activity the subject of the application was notified under section 51 before the application was made; and (b) for an EIS under the State Development Act—the EIS for each relevant activity the subject of the application was notified under section 33 of that Act before the application was made; and (ba) the environmental risks of each relevant activity the subject of the application activity have not changed since the EIS mentioned in paragraph (a) or (b) was notified; and	10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
	(3)	Section 150(1)(ba) and (c)— <i>renumber</i> as section 150(1)(c) and (d).	26 27
	(4)	Section 150(4), definition <i>EIS process</i> — <i>omit.</i>	28 29
Clause 116		Amendment of s 153 (Required content of application notice)	30 31
	(1)	Section 153—	32

[s 117]

<i>insert—</i>	1
(1A) Also, subsection (3) applies if the process for an EIS, for a relevant activity the subject of the application, was notified before the application was made.	2 3 4 5
<i>Note—</i>	6
However, see section 150 if an EIS for all relevant activities the subject of the application was notified before the application was made.	7 8 9
(1B) The application notice must state where, in the application documents mentioned in subsection (1)(d), information about the following changes between the EIS, since the EIS was notified, and the properly made application, are shown—	10 11 12 13 14
(a) the environmental risks of the activity that have changed as a result of the proposed changes to the way the relevant activity is to be carried out;	15 16 17 18
(b) proposed changes to the way the relevant activity is to be carried out.	19 20
(2) Section 153(1A) to (2)—	21
<i>renumber</i> as section 153(2) to (4).	22

Clause 117 Amendment of s 160 (Right to make submission)	23
Section 160—	24
<i>insert—</i>	25
(2) However, for an application to which section 153(3) applies, an entity may, within the submission period, make a submission to the administering authority only about the following matters relating to the application—	26 27 28 29 30
(a) the environmental risks of the activity that have changed as a result of the proposed	31 32

	changes to the way the relevant activity is to be carried out;	1
		2
	(b) proposed changes to the way the relevant activity is to be carried out.	3
		4
Clause 118	Amendment of s 161 (Acceptance of submission)	5
	Section 161—	6
	<i>insert—</i>	7
	(4) Subsection (5) applies for an application if the process for an EIS, for a relevant activity the subject of the application, was notified before the application was made.	8
		9
		10
		11
	<i>Note—</i>	12
	However, see section 150 if an EIS for all relevant activities the subject of the application was notified before the application was made.	13
		14
		15
	(5) The authority need not accept any part of the submission that the authority reasonably considers is not relevant to the matters mentioned in section 160(2)(a) or (b).	16
		17
		18
		19
Clause 119	Amendment of s 205 (Conditions that must be imposed for site-specific applications)	20
		21
	(1) Section 205, heading, ‘for site-specific applications’—	22
	<i>omit, insert—</i>	23
	if application relates to coordinated project	24
	(2) Section 205(1), ‘a site-specific’—	25
	<i>omit, insert—</i>	26
	an	27
	(3) Section 205(2)—	28
	<i>insert—</i>	29
	<i>Note—</i>	30

[s 120]

	In evaluating an EIS under the State Development Act, the Coordinator-General may state conditions mentioned in section 34D(3)(b) of that Act.	1 2 3
Clause 120	Amendment of s 228 (Assessment level decision for amendment application)	4 5
	Section 228—	6
	<i>insert—</i>	7
	(3) If the assessment level decision is that the amendment is a major amendment, the applicant must pay an assessment fee prescribed by regulation.	8 9 10 11
Clause 121	Amendment of s 229 (Notice of assessment level decision)	12 13
	Section 229—	14
	<i>insert—</i>	15
	(2) Also, if the assessment level decision is that the amendment is a major amendment, the written notice must also state that—	16 17 18
	(a) the applicant must pay an assessment fee prescribed by regulation; and	19 20
	(b) an assessment of the application under division 4 will not proceed until the assessment fee mentioned in paragraph (a) is paid.	21 22 23 24
Clause 122	Amendment of s 232 (Relevant application process applies)	25 26
	Section 232—	27
	<i>insert—</i>	28
	(3A) Also, if the assessment level decision is that the amendment is a major amendment, an	29 30

	assessment of the application under division 4	1
	may not proceed until the prescribed assessment	2
	fee is paid.	3
Clause 123	Amendment of s 320A (Application of div 2)	4
(1)	Section 320A(1)—	5
	<i>insert—</i>	6
	(c) becomes aware—	7
	(i) that a notifiable activity is being carried	8
	out on land; or	9
	(ii) of the happening of an event, or a	10
	change in the condition of	11
	contaminated land, that is causing, or is	12
	reasonably likely to cause, serious or	13
	material environmental harm.	14
(2)	Section 320A(1)—	15
	<i>insert—</i>	16
	<i>Note—</i>	17
	See subdivision 2 for the duty of a person mentioned in	18
	subsection (1)(a) and (b) if the person is carrying out the	19
	primary activity. See subdivision 3 for the duty of an	20
	employer of a person mentioned in subsection (1)(a) and	21
	(b). See subdivision 3A for the duty of a person	22
	mentioned in subsection (1)(c).	23
(3)	Section 320A—	24
	<i>insert—</i>	25
	(1A) Also, this division applies to a person who—	26
	(a) is—	27
	(i) the owner or occupier of contaminated	28
	land; or	29
	(ii) an auditor performing an auditor's	30
	function mentioned in section 568(b);	31
	and	32

[s 124]

	(b) becomes aware of—	1
	(i) the happening of an event; or	2
	(ii) a change in the condition of contaminated land;	3 4
	that is causing, or is reasonably likely to cause, serious or material environmental harm.	5 6 7
	<i>Note—</i>	8
	See subdivision 3A about the duty of a person mentioned in subsection (2).	9 10
	(1B) This division applies to a local government that becomes aware—	11 12
	(a) that a notifiable activity has been, or is being, carried out on land in the local government area; or	13 14 15
	(b) of—	16
	(i) the happening of an event in the local government area; or	17 18
	(ii) a change in the condition of contaminated land in the local government area;	19 20 21
	that is causing, or is reasonably likely to cause, serious or material environmental harm.	22 23 24
	<i>Note—</i>	25
	See subdivision 3B for the duty of a local government mentioned in subsection (3).	26 27
	(4) Section 320A(1A) to (2)—	28
	<i>renumber</i> as section 320A(2) to (4).	29
Clause 124	Amendment of s 320B (Duty of employee to notify employer)	30 31
	(1) Section 320B, heading, ‘employee’—	32

omit, insert— 1

particular employees 2

(2) Section 320B— 3

insert— 4

(1A) However, this section does not apply if the person
is carrying out the primary activity as an auditor
performing auditor's functions mentioned in
section 568. 5
6
7
8

(3) Section 320B(1A) and (2)— 9

renumber as section 320B(2) and (3). 10

Clause 125 Insertion of new ch 7, pt 1, div 2, sdivs 3A and 3B 11

Chapter 7, part 1, division 2— 12

insert— 13

**Subdivision 3A Duty of owner, occupier or
auditor** 14
15

**320DA Duty of owner, occupier or auditor to notify
administering authority** 16
17

(1) This section applies to a person mentioned in
section 320A(2). 18
19

(2) The person must, within 24 hours after becoming
aware of the event or change in the condition of
the land, give the administering authority written
notice of the matters stated in subsection (3),
unless the person has a reasonable excuse. 20
21
22
23
24

Maximum penalty—500 penalty units. 25

(3) The notice must state— 26

(a) the nature of the event or change in
condition; and 27
28

(b) the circumstances in which the event or
change happened. 29
30

[s 126]

Subdivision 3B Duty of local government

320DB Duty of local government to notify administering authority

- (1) A local government mentioned in section 320(3)(a) must, within 20 business days after becoming aware that the activity has been, or is being, carried out on land in its area, give the administering authority written notice of the activity.
- (2) A local government mentioned in section 320(3)(b) must, within 24 hours after becoming aware of the event or the change in condition of the land, give the administering authority written notice of—
 - (a) the nature of the event or change in the condition; and
 - (b) the circumstances in which the event or change happened or is happening.

Clause 126 Replacement of s 321 (What is an environmental evaluation)

Section 321—

omit, insert—

321 What is an environmental evaluation

- (1) An environmental evaluation is an evaluation of an activity or event to decide—
 - (a) the source, cause or extent of environmental harm being caused, or the extent of environmental harm likely to be caused, by the activity or event; and
 - (b) the need for a transitional environmental program for the activity or event.

	(2)	Also, an environmental evaluation is an evaluation of contaminated land to decide—	1 2
	(a)	the source, cause or extent of contamination of the land being caused, or likely to be caused; and	3 4 5
	(b)	the need for—	6
	(i)	a site management plan for the land; or	7
	(ii)	the land to be remediated; and	8
	(c)	the source, cause or extent of any contamination to the surrounding land, or to the environment, being caused, or likely to be caused, by the contamination of the land; and	9 10 11 12 13
	(d)	any environmental harm being caused, or likely to be caused, by the contamination of the land.	14 15 16
Clause 127		Amendment of 326B (When environmental investigation required)	17 18
		Section 326B, heading, after ‘required’—	19
		<i>insert</i> —	20
		— environmental harm	21
Clause 128		Insertion of new s 326BA	22
		After section 326B—	23
		<i>insert</i> —	24
		326BA When environmental investigation required—contamination of land	25 26
	(1)	This section applies if the administering authority is satisfied that all of the following apply to land—	27 28 29

[s 129]

	(a) particulars of the land are recorded in the environmental management register or contaminated land register;	1 2 3
	(b) the hazardous contaminant contaminating the land is in a concentration that has the potential to cause serious environmental harm or material environmental harm;	4 5 6 7
	(c) a person, animal or another part of the environment may be exposed to the hazardous contaminant, whether on the land or not.	8 9 10 11
(2)	The administering authority may, by written notice (also an <i>investigation notice</i>), require a prescribed responsible person for the land to—	12 13 14
	(a) conduct or commission an investigation (also an <i>environmental investigation</i>) about the contamination or potential contamination of the land; and	15 16 17 18
	(b) give the administering authority a site investigation report for the land in accordance with sections 389 and 390.	19 20 21
(3)	The administering authority must not require an environmental investigation to be conducted or commissioned if—	22 23 24
	(a) the land is subject to a site management plan for the contamination; and	25 26
	(b) the conditions of the plan are being complied with.	27 28
Clause 129	Amendment of s 326C (Content of investigation notice)	29
(1)	Section 326C(1), after ‘investigation notice’—	30
	<i>insert—</i>	31
	given under section 326B or 326BA	32
(2)	Section 326C(1)(c), before ‘that’—	33

insert— 1

for a notice given under section 326B— 2

(3) Section 326C(1)— 3

insert— 4

(d) for a notice given under section 5
326BA—that the person must, within a 6
stated reasonable period— 7

(i) conduct or commission the 8
environmental investigation; and 9

(ii) give the administering authority a site 10
investigation report for the land in 11
accordance with sections 389 and 390. 12

(4) Section 326C(2), ‘Also, an investigation notice’— 13

omit, insert— 14

An investigation notice given under section 326B or 15
326BA 16

Clause 130 Insertion of new s 326DA 17

Chapter 7, part 2, division 3— 18

insert— 19

**326DA Procedure to be followed if recipient is not 20
owner** 21

(1) This section applies if the person (the *recipient*) 22
to whom an investigation notice is given is not 23
the land’s owner. 24

(2) The recipient, or a person conducting the 25
environmental investigation for the recipient (the 26
investigator), may enter the land to conduct the 27
investigation only— 28

(a) with the consent of the owner and occupier 29
of the land; or 30

[s 131]

	(b) if the recipient or investigator has given at least 5 business days written notice to the owner and occupier.	1 2 3
(3)	The notice must inform the owner and occupier of—	4 5
	(a) the intention to enter the land; and	6
	(b) the purpose of the entry; and	7
	(c) the days and times when the land is to be entered.	8 9
(4)	Nothing in this section authorises the recipient or investigator to enter a building used for residential purposes.	10 11 12
(5)	When conducting the environmental investigation, the recipient or investigator must take all reasonable steps to ensure the recipient or investigator causes as little inconvenience, and does as little damage, as is practicable in the circumstances.	13 14 15 16 17 18
(6)	If a person incurs loss or damage because of the environmental investigation, the person is entitled to be paid by the recipient or investigator reasonable compensation because of the loss or damage—	19 20 21 22 23
	(a) as agreed between the recipient or investigator and the person; or	24 25
	(b) if an agreement can not be reached—as decided by a court of competent jurisdiction.	26 27 28
(7)	The court may make the order about costs that the court considers just.	29 30
Clause 131	Amendment of s 358 (When order may be issued)	31
	Section 358(c)—	32
	<i>omit, insert—</i>	33

	(c) if the authority is satisfied, because of an environmental evaluation conducted or commissioned by the person, unlawful environmental harm is being, or is likely to be, caused; or	1 2 3 4 5
Clause 132	Amendment of s 363F (Definitions for pt 5B)	6
	Section 363F, definition <i>contamination incident</i> —	7
	<i>omit, insert</i> —	8
	<i>contamination incident</i> means—	9
	(a) an incident involving contamination of the environment that the administering authority is satisfied has caused or is likely to cause serious or material environmental harm; or	10 11 12 13
	(b) the carrying out of an activity on contaminated land, the happening of an event on contaminated land, or a change in the condition of contaminated land that the administering authority is satisfied has caused or is likely to cause the land or any other land to become contaminated land; or	14 15 16 17 18 19 20
	(c) a combination of matters mentioned in paragraph (a) or (b).	21 22
Clause 133	Amendment of s 363G (Who are the <i>prescribed persons</i> for a contamination incident)	23 24
	Section 363G—	25
	<i>insert</i> —	26
	(ba) for a contamination incident mentioned in section 363F, definition <i>contamination incident</i> , paragraph (b)—a prescribed responsible person for the land to which the incident relates;	27 28 29 30 31

[s 134]

Clause 134	Amendment of s 363M (Who are the <i>prescribed persons</i> for a contamination incident)	1 2
	Section 363M—	3
	<i>insert</i> —	4
	(ba) for a contamination incident mentioned in section 363F, definition <i>contamination incident</i> , paragraph (b)—a prescribed responsible person for the land to which the incident relates;	5 6 7 8 9
Clause 135	Replacement of ch 7, pt 8 (Contaminated land)	10
	Chapter 7, part 8—	11
	<i>omit, insert</i> —	12
	Part 8	Contaminated land 13
	Division 1	Interpretation 14
	370 Definitions for pt 8	15
	In this part—	16
	<i>compliance permit</i> means a compliance permit in the approved form under the Planning Act.	17 18
	<i>relevant land</i> means land for which particulars are recorded in a relevant land register.	19 20
	<i>relevant land register</i> means the environmental management register or contaminated land register.	21 22 23
	<i>site investigation report</i> , for relevant land, means a report about an investigation of the land to scientifically assess whether the land is contaminated land.	24 25 26 27
	<i>site management plan</i> , for relevant land, means a plan for managing the environmental harm that	28 29

may be caused by the hazardous contaminant 1
contaminating the land by applying conditions to 2
the use or development of, or activities carried 3
out on, the land. 4

site suitability statement see section 389(2)(a). 5

validation report, for relevant land, means a 6
report about work carried out to remediate the 7
land. 8

Division 2 **Including land in relevant** 9
 land register 10

Subdivision 1 **Preliminary** 11

371 Grounds for including land in environmental 12
 management register 13

The administering authority may record particulars of 14
land in the environmental management register at any 15
time if the authority is satisfied— 16

(a) a notifiable activity has been, or is being, 17
carried out on the land; or 18

(b) the land is contaminated land. 19

372 Grounds for including land in contaminated 20
 land register 21

(1) This section applies to land if particulars of the 22
land are recorded in the environmental 23
management register. 24

(2) The administering authority may record 25
particulars of the land in the contaminated land 26
register at any time if the authority is satisfied— 27

(a) the land is contaminated land; and 28

[s 135]

- (b) it is necessary to take action to remediate the 1
land to prevent serious environmental harm. 2

**Subdivision 2 Process for including land 3
in relevant land register 4**

373 Application of sdiv 2 5

This subdivision applies if the administering authority 6
proposes to record particulars of land in a relevant 7
land register. 8

**374 Process for including land in relevant land 9
register 10**

Particulars of land may be included in a relevant land 11
register only if the process in this division is followed. 12

**375 Show cause notice to be given to owner of 13
land 14**

- (1) The administering authority must give the land's 15
owner written notice (a *show cause notice*) about 16
the proposal to include particulars of the land in a 17
relevant land register. 18
- (2) The show cause notice must state the 19
following— 20
- (a) that the administering authority believes 21
grounds exist for including particulars of the 22
land in a relevant land register; 23
- (b) the facts and circumstances relied on to 24
support the grounds; 25
- (c) that the owner may make a written 26
submission to the authority about why 27
particulars of the land should not be 28
included in the relevant register; 29

-
- (d) the day by which the owner may make the submission; 1
2
 - (e) that the submission must be accompanied by 3
a written declaration by the owner that the 4
owner— 5
 - (i) has not knowingly included any false 6
or misleading information in the 7
submission; and 8
 - (ii) has given all relevant information to the 9
authority. 10
 - (3) For subsection (2)(d), the day must be at least 20 11
business days after the show cause notice is given 12
to the owner. 13
 - (4) Also, if an investigation of the land has been 14
conducted and the administering authority holds 15
a copy of a report prepared about the 16
investigation, the show cause notice must be 17
accompanied by a copy of the report. 18

376 Making and considering submission 19

- (1) The land's owner may make a written submission 20
to the administering authority by the day stated in 21
the show cause notice. 22
- (2) The submission must be accompanied by— 23
 - (a) the declaration mentioned in section 24
375(2)(e); and 25
 - (b) if an investigation of the land has been 26
conducted—a copy of the report prepared 27
about the investigation mentioned in section 28
375(4). 29
- (3) The administering authority must consider a 30
submission made by the owner under this section. 31

[s 135]

377 Decision about including land in relevant land register etc.	1 2
(1) If, after considering the submission, the administering authority still believes grounds exist to record particulars of the land in the relevant land register, the authority must record the particulars in the register.	3 4 5 6 7
(2) If the administering authority records particulars of the land in the contaminated land register, the administering authority must remove the particulars of the land from the environmental management register.	8 9 10 11 12
378 Notice of decision about including land in relevant land register	13 14
The administering authority must, within 5 business days after deciding whether to include particulars in the register, give an information notice about the decision to—	15 16 17 18
(a) the land’s owner; and	19
(b) the relevant local government; and	20
(c) if the decision is to record particulars of the land in the contaminated land register—any registered mortgagee of the land.	21 22 23
379 Notice to registrar of titles about including land in contaminated land register	24 25
The administering authority must, within 5 business days after recording particulars of land in the contaminated land register, give written notice that the particulars have been recorded to the registrar of titles.	26 27 28 29

Subdivision 3 Amending or removing particulars in relevant land register	1 2 3
380 Amending or removing particulars of land	4
The administering authority may amend particulars of land recorded in a relevant land register, or remove particulars of land from a relevant land register, only under this subdivision.	5 6 7 8
381 Site investigation report or validation report	9
(1) This section applies if the administering authority receives a site investigation report or validation report for the land that complies with division 3, subdivision 2.	10 11 12 13
(2) The administering authority must—	14
(a) if the site suitability statement accompanying the site investigation report or validation report states the land is not contaminated land and is suitable for any use—remove particulars of the land from the relevant land register; or	15 16 17 18 19 20
(b) otherwise—amend the particulars of the land in the relevant land register to record the uses for which the land is suitable in accordance with the site suitability statement.	21 22 23 24 25
382 Compliance permit	26
(1) This section applies if an auditor gives the administering authority a copy of a compliance permit for the land.	27 28 29
(2) The administering authority must—	30

[s 135]

- (a) if the compliance permit states the land is not contaminated land and is suitable for any use—remove particulars of the land from the relevant land register; or
- (b) otherwise—amend the particulars of the land in the relevant land register to record the uses for which the land is suitable in accordance with the compliance permit.

383 Site management plan

- (1) This section applies if the administering authority—
 - (a) approves a draft site management plan for the land under division 3, subdivision 4; or
 - (b) prepares a draft site management plan for the land under division 3, subdivision 5; or
 - (c) amends or approves an amendment of a draft site management plan for the land.
- (2) The administering authority must include the details of the site management plan with the particulars of the land recorded in the relevant land register.

384 Minor amendment

- The administering authority may, on the authority's own initiative, amend particulars of the land recorded in the relevant land register if the amendment is a change that corrects only—
- (a) a clerical mistake in the particulars of the land; or
 - (b) a spelling or grammatical error.

385 Notice to be given if particulars of land amended in or removed from register	1 2
(1) This section applies if the administering authority decides to—	3 4
(a) amend particulars of land in a relevant land register; or	5 6
(b) remove particulars of land from a relevant land register.	7 8
(2) The administering authority must, within 5 business days after making the decision, give an information notice for the decision to each of the following persons—	9 10 11 12
(a) the land’s owner;	13
(b) if a person other than the land’s owner submitted a site investigation report, validation report or draft site management plan for the land—the other person;	14 15 16 17
(c) if the decision is to remove particulars of the land from the relevant land register—the relevant local government.	18 19 20
(3) If section 381 applies, the notice must be accompanied by a copy of the site suitability statement that accompanied the site investigation report or validation report for the land.	21 22 23 24
386 Notice to registrar of titles if particulars of land amended in or removed from contaminated land register	25 26 27
(1) This section applies if the administering authority decides to—	28 29
(a) amend particulars of land in the contaminated land register; or	30 31
(b) remove particulars of land from the contaminated land register.	32 33

[s 135]

- (2) The administering authority must, within 5 1
business days after making the decision, give 2
written notice of the decision to the registrar of 3
titles. 4

Division 3 Contaminated land 5
investigation documents 6

Subdivision 1 Preliminary 7

387 Definition for div 3 8

In this division— 9

contaminated land investigation document, for 10
relevant land, means any of the following for the 11
land— 12

- (a) a site investigation report; 13
(b) a validation report; 14
(c) a draft site management plan. 15

Subdivision 2 Content and submission of 16
contaminated land 17
investigation documents 18

388 Application of sdiv 2 19

(1) This subdivision applies if— 20

- (a) a site investigation report for relevant land 21
is— 22
(i) required under the Planning Act to be 23
attached to a compliance permit for the 24
land; or 25

-
- (ii) required to be prepared under an investigation notice for the land; or 1
2
- (b) a validation report for relevant land is— 3
- (i) required under the Planning Act to be attached to a compliance permit for the land; or 4
5
6
- (ii) required to be prepared under a clean-up notice for the land; or 7
8
- (c) a draft site management plan is required to be prepared under section 391; or 9
10
- (d) a contaminated land investigation document is required to be prepared under a notice given or order made under this Act. 11
12
13
- Note—* 14
- See section 565 about who may prepare a contaminated land investigation document. 15
16
- (2) Also, this subdivision applies if a person, at any time, voluntarily gives the administering authority a contaminated land investigation document for relevant land. 17
18
19
20

389 Content of contaminated land investigation document 21
22

- (1) A contaminated land investigation document for relevant land must include the following information about the land— 23
24
25
- (a) the reasons particulars of the land have been recorded in a relevant land register; 26
27
- (b) a description of all surface and subsurface infrastructure on the land, including details of the location, size and type of the infrastructure; 28
29
30
31

[s 135]

- (c) a description of the surrounding area of the land, including a description of each of the following in the surrounding area—
 - (i) all environmentally sensitive areas;
 - (ii) the location of all water, watercourses and wetlands;
 - (iii) the location of all stormwater drainage;
 - (iv) all uses of the land, including uses that may affect the safety of the relevant land or cause environmental harm;
 - (v) all activities carried out that may affect the safety of the relevant land or cause environmental harm;
- (d) for waste disposed of or stored on the land that contains, or may potentially contain, hazardous contaminants—
 - (i) details of the location, volume and type of the waste; and
 - (ii) details of any potential contamination of the land caused by disposing of or storing the waste on the land;
- (e) a description of the geology and hydrogeology of the land;
- (f) details of any environmentally relevant activities or notifiable activities carried out on the land, including the materials used and waste produced during the carrying out of the activities;
- (g) details of any earthworks carried out on the land, including the materials used and waste produced during the earthworks;
- (h) if work has been carried out on the land to remediate the contamination of the land—the contamination levels recorded on

-
- the land before and after the work was carried out; 1
2
- (i) for a draft site management plan— 3
- (i) the proposed objectives to be achieved and maintained under the plan; and 4
5
- (ii) the proposed methods for achieving and maintaining the objectives; and 6
7
- (iii) the proposed monitoring and reporting compliance measures for the land. 8
9
- (2) Also, a contaminated land investigation document must include— 10
11
- (a) a statement (a *site suitability statement*) of the uses or activities for which the land is suitable; and 12
13
14
- (b) a statement of the following matters— 15
- (i) whether the land is prescribed contaminated land; 16
17
- (ii) if the land is contaminated—the extent to which the land is contaminated; 18
19
- (iii) for a draft site management plan—whether the proposed objectives, methods and measures stated in the plan under subsection (1)(i) are appropriate; 20
21
22
23
24
- (iv) the extent to which the assessment of the land is in accordance with the contaminated land NEPM. 25
26
27
- (3) A contaminated land investigation document must be accompanied by a written certification (an *auditor's certification*) by an auditor verifying that the document complies with subsections (1) and (2). 28
29
30
31
32
- (4) In this section— 33

[s 135]

- contaminated land NEPM* means the National Environment Protection (Assessment of Site Contamination) Measure, made by the National Environment Protection Council under the *National Environment Protection Council Act 1994* (Cwlth). 1
2
3
4
5
6
- environmentally sensitive area* means an area prescribed by regulation as an environmentally sensitive area. 7
8
9
- prescribed contaminated land* means land contaminated in a way that is a risk of causing environmental harm to— 10
11
12
- (a) land other than the relevant land; or 13
 - (b) human health; or 14
 - (c) another part of the environment. 15
- water* has the meaning given under the *Water Act 2000*. 16
17

- 390 Requirements for submission of contaminated land investigation document** 18
19
- (1) This section applies if a person gives the administering authority a contaminated land investigation document. 20
21
22
 - (2) The document must be accompanied by a declaration, made by the relevant person, that the person— 23
24
25
 - (a) has not knowingly given any false or misleading information to the auditor who certified the document; and 26
27
28
 - (b) has given all relevant information to the auditor; and 29
30
 - (c) if the person is not the land’s owner—has given a copy of the document to the owner. 31
32
 - (3) The *relevant person* is— 33

-
- (a) if the contaminated land investigation document is given to the administering authority in order to comply with a notice given to a person by the authority under this Act—the person to whom the notice was given; or
- (b) otherwise—the person who gives the document to the administering authority.
- (4) However, if the person mentioned in subsection (3)(a) or (b) is a corporation, an executive officer of the corporation is taken to be the relevant person.
- (5) The contaminated land investigation document must also be accompanied by—
- (a) for a draft site management plan prepared by a person other than the land’s owner—a statement by the land’s owner agreeing to the draft plan; and
- (b) the fee prescribed by regulation.

Subdivision 3 Preparation of draft site management plan

391 Show cause notice

- (1) This section applies to relevant land only if the administering authority reasonably believes—
- (a) the land is contaminated land; and
- (b) the contamination may be managed by applying conditions to the use or development of, or activities carried out on, the land.
- (2) The administering authority may require a prescribed responsible person for the land to prepare or commission a draft site management

[s 135]

- plan for the land and submit the draft plan to the authority, in accordance with subdivision 2. 1
2
- (3) Also, the administering authority may prepare a site management plan for the relevant land. 3
4
- (4) Before taking action under subsection (2) or (3), the administering authority must give the prescribed responsible person a notice (a **show cause notice**) inviting the person to show cause why the action should not be taken. 5
6
7
8
9
- (5) A show cause notice must be in writing and state the following— 10
11
- (a) that the administering authority proposes to— 12
13
- (i) require the prescribed responsible person to prepare or commission a draft site management plan for the relevant land; or 14
15
16
17
- (ii) prepare a site management plan for the relevant land; 18
19
- (b) the facts and circumstances forming the basis for the administering authority's belief that— 20
21
22
- (i) the land is contaminated land; and 23
- (ii) the contamination may be managed by applying conditions to the use or development of, or activities carried out on, the land; 24
25
26
27
- (c) that representations may be made about the proposed action; 28
29
- (d) how the representations may be made; 30
- (e) the period during which the representations must be made. 31
32
- (6) For subsection (5)(e), the period must end at least 20 business days after the day the show cause 33
34

notice is given to the prescribed responsible person. 1
2

392 Making and consideration of submission 3

- (1) The prescribed responsible person may, within the period stated in the show cause notice, make a written submission to the administering authority about why the action (the *proposed action*) stated in the show cause notice should not be taken. 4
5
6
7
8
- (2) The administering authority must consider a submission made by the prescribed responsible person under subsection (1). 9
10
11

393 Decision about taking action 12

If, after complying with section 392(2), the administering authority still believes it is appropriate to take the proposed action, the authority may decide to take the action. 13
14
15
16

394 Notice of decision 17

- (1) This section applies if the administering authority decides to require the prescribed responsible person for the land to prepare or commission a draft site management plan for the land. 18
19
20
21
- (2) The administering authority must give the prescribed responsible person a written notice that requires the person to prepare or commission a draft site management plan for the relevant land, and give the draft plan to the administering authority, in accordance with subdivision 2. 22
23
24
25
26
27
- (3) The notice must state— 28
- (a) the grounds on which the notice is given; 29
and 30

[s 135]

(b)	the matters to be addressed by the draft site management plan for the land; and	1 2
(c)	the day (at least a reasonable period after the notice is given) by which the draft plan must be prepared and given to the administering authority; and	3 4 5 6
(d)	the review or appeal details.	7
(4)	If the prescribed responsible person is not the land's owner, the administering authority must also give a copy of the notice to the owner.	8 9 10
	<i>Note—</i>	11
	See section 565 about who may prepare a draft site management plan.	12 13
(5)	A prescribed responsible person for relevant land who receives a notice under this section must comply with the notice.	14 15 16
	Maximum penalty—300 penalty units.	17
	395 Procedure to be followed if recipient is not owner	18 19
(1)	This section applies if the prescribed responsible person who receives a notice under section 394 in relation to relevant land is not the land's owner.	20 21 22
(2)	The prescribed responsible person, or a person (a <i>consultant</i>) preparing the draft site management plan for the prescribed responsible person, may enter the land to prepare the draft plan—	23 24 25 26
(a)	with the consent of the owner and occupier of the land; or	27 28
(b)	if the prescribed responsible person or consultant has given the owner and occupier at least 5 business days written notice of the person's or consultant's intention to enter the land.	29 30 31 32 33

-
- | | | |
|-----|---|--|
| (3) | The notice must state— | 1 |
| | (a) the intention to enter the land; and | 2 |
| | (b) the purpose of the entry; and | 3 |
| | (c) the days and times when the land is to be entered. | 4
5 |
| (4) | Nothing in this section authorises the prescribed responsible person or consultant to enter a building used for residential purposes. | 6
7
8 |
| (5) | When preparing the draft site management plan, the prescribed responsible person or consultant must take all reasonable steps to ensure the person or consultant causes as little inconvenience, and does as little damage, as is practicable in the circumstances. | 9
10
11
12
13
14 |
| (6) | If a person (the <i>affected person</i>) incurs loss or damage because of the entry of the land by the prescribed responsible person or consultant to prepare a draft site management plan, the affected person is entitled to be paid by the prescribed responsible person or consultant reasonable compensation because of the loss or damage— | 15
16
17
18
19
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21
22 |
| | (a) that is agreed between the prescribed responsible person or consultant and the affected person; or | 23
24
25 |
| | (b) if an agreement can not be reached—as decided by a court of competent jurisdiction. | 26
27
28 |
| (7) | For subsection (6)(b), the court may make the order about costs that the court considers just. | 29
30 |

[s 135]

Subdivision 4	Consideration of draft site management plans	1 2
396	Application of sdiv 4	3
	This subdivision applies if a draft site management plan for relevant land is given to the administering authority.	4 5 6
397	Requiring another site management plan or additional information	7 8
(1)	This section applies if the administering authority is satisfied—	9 10
(a)	a draft site management plan does not adequately address the matters stated in section 389; or	11 12 13
(b)	the person (the <i>submitter</i>) who gave the draft plan to the authority did not comply with section 390; or	14 15 16
(c)	the draft plan was not prepared by a suitably qualified person, as required by section 565.	17 18
(2)	The administering authority may require the submitter to—	19 20
(a)	amend the draft site management plan; or	21
(b)	prepare or commission another draft site management plan for the relevant land.	22 23
(3)	Also, the administering authority may require the submitter to—	24 25
(a)	give the authority stated additional information about the draft site management plan; or	26 27 28
(b)	verify, by statutory declaration—	29

(i)	stated information in the draft site management plan; or	1 2
(ii)	additional information required under paragraph (a).	3 4
(4)	If the administering authority makes a requirement under this section, the authority must give the submitter an information notice about the decision to make the requirement.	5 6 7 8
398	Deciding whether to approve draft site management plan	9 10
(1)	If section 397(2) does not apply, the administering authority must, within 20 business days after receiving a draft site management plan, decide whether to approve the draft plan.	11 12 13 14
(2)	The administering authority may decide to extend the period mentioned in subsection (1) if the authority—	15 16 17
(a)	has made a requirement under section 397(3); or	18 19
(b)	is satisfied special circumstances exist that justify extending the period.	20 21
(3)	The administering authority must give an information notice for the decision to—	22 23
(a)	the submitter; and	24
(b)	if the submitter is not the land’s owner—the owner.	25 26
(4)	The information notice must be given before the end of whichever of the following happens last—	27 28
(a)	the period mentioned in subsection (1); or	29
(b)	if the period is extended under subsection (2)—the extended period.	30 31

[s 135]

- (5) If the administering authority fails to decide whether to approve a draft site management plan within the period required under this section, the authority is taken to have refused to approve the draft plan at the end of the period.

399 Approval of draft site management plan

- (1) This section applies if the administering authority decides to approve a draft site management plan for relevant land.
- (2) The administering authority must, within 5 business days after making the decision—
- (a) record the details of the plan in the relevant land register in which particulars of the land are recorded; and
 - (b) give the submitter and the relevant local government, and, if the submitter is not the land's owner, the owner—
 - (i) a certificate of approval for the plan; and
 - (ii) written notice of the approval; and
 - (iii) a copy of the site suitability statement for the land that accompanied the plan.

400 Refusal to approve draft site management plan

- (1) This section applies if the administering authority refuses to approve a draft site management plan for relevant land.
- (2) The administering authority must, within 5 business days after making the decision, give an information notice for the decision to—
- (a) the submitter; and

-
- (b) if the submitter is not the land’s owner—the
owner. 1
2

**Subdivision 5 Preparation of site
management plan by
administering authority** 3
4
5

**401 Procedure if administering authority prepares
site management plan** 6
7

- (1) This section applies if the administering authority
prepares a site management plan for relevant land
under section 391(3). 8
10
- (2) The administering authority must, within 5
business days after preparing the site
management plan— 11
12
13
- (a) record the details of the plan in the relevant
land register in which particulars of the land
are recorded; and 14
15
16
- (b) give the land’s owner and the relevant local
government— 17
18
- (i) written notice that the plan has been
prepared; and 19
20
- (ii) a copy of the site management plan,
including the site suitability statement
that accompanies the plan. 21
22
23
- (3) The notice must state— 24
- (a) the reasons why the administering authority
prepared the site management plan; and 25
26
- (b) the review or appeal details. 27

[s 135]

Subdivision 6	Amendment of site management plan	1 2
402	Voluntary amendment of site management plans	3 4
(1)	This section applies if a person wants to amend a site management plan.	5 6
(2)	Subdivisions 2 to 4 apply—	7
(a)	as if a reference in those subdivisions to a draft site management plan were a reference to a draft amendment of a site management plan; and	8 9 10 11
(b)	with any other necessary changes.	12
403	Amendment of site management plan with written agreement	13 14
	The administering authority may, at any time, amend a site management plan for relevant land with the written agreement of—	15 16 17
(a)	the land’s owner; and	18
(b)	if the owner is not the occupier of the land—the occupier of the land.	19 20
404	Amending or requiring amendment of site management plan	21 22
(1)	If the administering authority considers it necessary or desirable, the administering authority may—	23 24 25
(a)	prepare an amendment of a site management plan; or	26 27
(b)	require a draft amendment of a site management plan to be prepared and given	28 29

-
- to the administering authority for approval 1
by— 2
- (i) the person who released the 3
contaminant contaminating the land if 4
the person is known and can be 5
located; or 6
- (ii) the relevant local government; or 7
- (iii) the land’s owner. 8
- (2) Subdivisions 2 to 5 apply for subsection (1)— 9
- (a) as if a reference in those subdivisions to a 10
site management plan or draft site 11
management plan were a reference to an 12
amendment, or a draft amendment, of a site 13
management plan; and 14
- (b) with any other necessary changes. 15

Division 4 Miscellaneous provisions 16

405 Registrar of titles to maintain records about 17 contaminated land 18

- (1) This section applies if the administering authority 19
gives the registrar of titles written notice under 20
section 379 or 386. 21
- (2) The registrar of titles must maintain records that 22
show particulars of the land stated in the notice 23
are recorded in the contaminated land register. 24
- (3) The registrar of titles must maintain the records 25
in a way that a search of the register maintained 26
by the registrar under any Act relating to the land 27
will show that particulars of the land are recorded 28
in the contaminated land register. 29
- (4) The registrar of titles must, on receiving the 30
notice— 31

[s 135]

- (a) if the notice is about the removal of land from the contaminated land register—remove the particulars of the land from the registrar’s records; or
- (b) if the notice is about a change to a record about land in the contaminated land register—make the appropriate change to the registrar’s records.

406 Local government must not allow contravention of site management plan

A local government must not, under an approval or other authority granted under the Planning Act or any other Act, allow the use or development of, or an activity to be carried out on, land in a way that contravenes a site management plan for the land the details of which are recorded in a relevant land register.

407 Owner to give notice to occupant or proposed occupant

- (1) This section applies if particulars of land are recorded in the contaminated land register.
- (2) If a lease is in effect in relation to the land when the particulars are recorded, the owner must, within 20 business days after the particulars are recorded, give the lessee notice that particulars of the land have been recorded in the register.
Maximum penalty—50 penalty units.
- (3) If, after the particulars are recorded, the land’s owner proposes to enter into a lease with another person, the owner must give notice about the recording of the particulars to the person before entering into the lease.
Maximum penalty—50 penalty units.

-
- (4) If the owner does not give notice as required under subsection (2) or (3), the lessee or other person may terminate the lease by written notice given to the owner within 10 days after the person becomes aware of the recording of the particulars. 1
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3
4
5
6
- (5) Subsection (4) applies despite anything to the contrary in the lease. 7
8
- (6) In this section— 9
lease means an agreement between the land's owner and another person about occupancy of the land. 10
11
12

408 Owner to give notice to proposed purchaser 13

- (1) This section applies to the owner of land if— 14
- (a) particulars of the land are recorded in a relevant land register; or 15
16
- (b) the land is the subject of— 17
- (i) a show cause notice under section 375; 18
or 19
- (ii) an environmental evaluation that includes a requirement to conduct or commission a site investigation; or 20
21
22
- (iii) a clean-up notice that includes a requirement to provide a validation report; or 23
24
25
- (iv) a notice under section 394; or 26
- (v) a notice under section 401; or 27
- (c) the land is the subject of an order under section 458. 28
29
- (2) The owner must, before agreeing to dispose of the land to someone else (the *buyer*), give written notice to the buyer stating— 30
31
32

[s 135]

- (a) if subsection (1)(a) applies—that the particulars of the land have been recorded in a relevant land register and, if details of a site management plan for the land are recorded in the register, details of the plan; or
 - (b) if subsection (1)(b) applies—that the owner has been given a notice mentioned in the subsection and particulars of the notice; or
 - (c) if subsection (1)(c) applies—that the land is the subject of the order and particulars of the order.
- Maximum penalty—50 penalty units.
- (3) If the owner does not comply with subsection (2), the buyer may rescind the agreement by giving the owner written notice before whichever of the following happens first—
 - (a) the completion of the agreement;
 - (b) possession under the agreement.
 - (4) When the buyer rescinds the agreement under subsection (3)—
 - (a) a person who has been paid an amount by the buyer under the agreement must refund the amount to the buyer; and
 - (b) the buyer must return to the owner any documents about the disposal, other than the buyer’s copy of the agreement.
 - (5) However, if the owner does not comply with subsection (2), the owner may give the written notice after agreeing to dispose of the land if the notice also states—
 - (a) the matters mentioned in subsections (3) and (4); and

	(b) that the buyer may act within 21 business days after receiving the notice.	1 2
	(6) If the buyer does not rescind the agreement within 21 business days after receiving the notice, the buyer is taken to have waived their right to rescind the agreement.	3 4 5 6
	(7) Subsections (3) to (6) apply despite anything to the contrary in the agreement.	7 8
Clause 136	Amendment of s 520 (Dissatisfied person)	9
	(1) Section 520(1)(m) and (n)— <i>omit.</i>	10 11
	(2) Section 520(1)(o)(i) and (iii), ‘413’— <i>omit, insert—</i> 399	12 13 14
	(3) Section 520(1)(o)(ii), ‘, other than for a decision under section 407’— <i>omit.</i>	15 16 17
Clause 137	Amendment of s 564 (Definitions for pt 3)	18
	(1) Section 564, definition <i>regulatory function</i> , paragraph (a), ‘division 3’— <i>omit.</i>	19 20 21
	(2) Section 564, definition <i>regulatory function</i> , paragraph (b), ‘division 4’— <i>omit.</i>	22 23 24
	(3) Section 564, definition <i>regulatory function</i> , paragraph (c), ‘division 5’— <i>omit.</i>	25 26 27

[s 138]

Clause 138	Amendment of s 568 (Auditor's functions)	1
	Section 568(b)—	2
	<i>omit, insert—</i>	3
	(b) prepare an auditor's certification for a contaminated land investigation document under chapter 7, part 8; and	4 5 6
Clause 139	Insertion of new s 574BA	7
	After section 574B—	8
	<i>insert—</i>	9
	574BA Administering authority may recover costs or expenses	10 11
	(1) This section applies if a person asks the administering authority to perform an auditor's function mentioned in section 568.	12 13 14
	(2) The administering authority may recover from the person the authority's reasonable costs or expenses in performing the function.	15 16 17
Clause 140	Insertion of new ch 13, pt 23, div 3	18
	Chapter 13, part 23—	19
	<i>insert—</i>	20

Division 3	Transitional provisions for amendments commencing by proclamation	1 2 3
Subdivision 1	General amendments	4
727	Applicant may elect for particular application to be dealt with as standard application or variation application	5 6 7
(1)	This section applies to an application for an environmental authority—	8 9
(a)	that relates to a coordinated project; and	10
(b)	made, but not decided, before the commencement; and	11 12
(c)	that, if it had been made on or after the commencement, would be—	13 14
(i)	a standard application; or	15
(ii)	a variation application.	16
(2)	The applicant may elect, by written notice given to the administering authority—	17 18
(a)	to have an application to which subsection (1)(c)(i) applies treated as a standard application; or	19 20 21
(b)	to have an application to which subsection (1)(c)(ii) applies treated as a variation application.	22 23 24
728	Applicant may elect for particular requirements to apply to particular application	25 26
(1)	This section applies to an application for an environmental authority that relates to a	27 28

[s 140]

- coordinated project if, before the
commencement— 1
2
- (a) the Coordinator-General has evaluated an
EIS for each relevant activity the subject of
the application and there are
Coordinator-General's conditions that relate
to each relevant activity; and 3
4
5
6
7
- (b) the application has not been decided. 8
- (2) The applicant may elect, by giving written notice
to the administering authority, for section 125(3)
to apply to the application. 9
10
11

**729 Applicant may elect for particular
requirements to apply to site-specific
applications—CSG activities** 12
13
14

- (1) This section applies to an application for an
environmental authority that relates to a
coordinated project if, before the
commencement— 15
16
17
18
- (a) the Coordinator-General has evaluated an
EIS for each relevant activity the subject of
the application and there are
Coordinator-General's conditions that relate
to each relevant activity; and 19
20
21
22
23
- (b) the application has not been decided. 24
- (2) The applicant may elect, by giving written notice
to the administering authority, for section 126(3)
to apply to the application. 25
26
27

**730 Conditions that must be imposed on particular
applications** 28
29

Section 205 applies to the standard application or
variation application to which section 729 applies. 30
31

Subdivision 2 Amendments related to replacement of former chapter 7, part 8	1 2 3
731 Definition for sdiv 2	4
In this subdivision—	5
<i>former chapter 7, part 8</i> means chapter 7, part 8 of the Act as in force immediately before the amendment of the part under the amending Act.	6 7 8
732 Continuing effect of registration of land	9
(1) Land that, immediately before the commencement, was recorded in the environmental management register under former chapter 7, part 8 continues to be recorded in the environmental management register as if it were recorded under chapter 7, part 8.	10 11 12 13 14 15
(2) Land that, immediately before the commencement, was recorded in the contaminated land register under former chapter 7, part 8 continues to be recorded in the contaminated land register as if it were recorded under chapter 7, part 8.	16 17 18 19 20 21
(3) Any conditions on the use or management of land recorded in the environmental management register or the contaminated land register under former chapter 7, part 8 continue to apply to the land mentioned in subsections (1) and (2).	22 23 24 25 26
733 Provision for land recorded under repealed Act	27 28
(1) This section applies to land the particulars of which were recorded under the <i>Contaminated Land Act 1991</i> , as in force immediately before its	29 30 31

[s 140]

repeal, in the contaminated sites register under that Act as being a confirmed site, restricted site or probable site.	1 2 3
(2) The particulars of the land are taken to have been recorded in the environmental management register or contaminated land register on the date that the particulars were recorded in the contaminated sites register.	4 5 6 7 8
734 Continuing effect of notices given under former chapter 7, part 8	9 10
A notice given under former chapter 7, part 8 continues to have effect as if former chapter 7, part 8 was still in force.	11 12 13
735 Continuing effect of site management plan made under former chapter 7, part 8	14 15
A site management plan made under former chapter 7, part 8 continues to have effect as if the plan were a site management plan under chapter 7, part 8.	16 17 18
736 Particular existing applications	19
(1) This section applies to any of the following applications made under the unamended Act but not decided before the commencement—	20 21 22
(a) an application to waive a requirement to conduct or commission a site investigation made under former section 378;	23 24 25
(b) an application to waive a requirement to remediate contaminated land made under former section 392;	26 27 28
(c) an application to waive a requirement to prepare or commission a site management	29 30

plan for contaminated land made under former section 407;	1 2
(d) an application for a disposal permit made under former section 424.	3 4
(2) On the commencement, the application lapses.	5
737 Applications for approval of draft site management plans	6 7
(1) This section applies to an application for approval of a draft site management plan made under former section 404 but not decided before the commencement.	8 9 10 11
(2) The administering authority must decide the application as if former chapter 7, part 8 was still in force.	12 13 14
738 Notice to purchaser	15
(1) This section applies if, before the commencement—	16 17
(a) the owner of land (the <i>seller</i>) to which former section 421 applies has entered into an agreement to dispose of the land to someone else (the <i>buyer</i>); and	18 19 20 21
(b) has not given the buyer a notice under former section 421(2).	22 23
(2) The seller may give a notice under section 408(5).	24 25
(3) Section 408(6) and (7) apply to the buyer and the seller.	26 27
Clause 141 Amendment of sch 2 (Original decisions)	28
(1) Schedule 2, part 1, division 5, entry for section 326C(1)(c)—	29

[s 141]

	<i>omit, insert—</i>	1
326C(1)(d)	fixing of period for conducting or commissioning environmental investigation and giving site investigation report	
(2)	Schedule 2, part 2, division 4, entry for section 326C(1)(c)—	2
	<i>omit, insert—</i>	3
326C(1)(d)	fixing of period for conducting or commissioning environmental investigation and giving site investigation report	
(3)	Schedule 2, part 2, division 4—	4
	<i>insert—</i>	5
326BA(2)	decision to give investigation notice	
(4)	Schedule 2, part 2, division 4, entries for sections 374(1) to 424(3) and (4)—	6
	<i>omit, insert—</i>	7
		8
377(1)	decision to include particulars of land in environmental management register or contaminated land register	
381(2)	decision to remove particulars of land in environmental management register or contaminated land register	
381(2)	decision to amend particulars of land in environmental management register or contaminated land register	
382(2)	decision to remove particulars of land in environmental management register or contaminated land register	

382(2)	decision to amend particulars of land in environmental management register or contaminated land register
393	requirement for preparation or commission of draft site management plan
393	decision to prepare site management plan
397(2)	requirement for amendment of draft site management plan
397(2)	requirement for preparation or commission of another draft site management plan
398(2)	extension of time for approval of draft site management plan
404(1)(a)	decision to prepare amendment of site management plan
404(1)(b)	requirement to prepare draft amendment of site management plan

Clause 142	Amendment of sch 4 (Dictionary)	1
(1)	Schedule 4, definitions <i>disposal permit, preliminary investigation, relevant area, remediation notice, residual risks requirement, show cause notice, site investigation report, site management plan, submitter, validation report—</i>	2
	<i>omit.</i>	3
(2)	Schedule 4—	4
	<i>insert—</i>	5
	<i>auditor's certification</i> see section 389.	6
	<i>compliance permit</i> , for chapter 7, part 8, see section 370.	7
	<i>contaminated land investigation document</i> , for relevant land, for chapter 7, part 8, division 3, see section 387.	8
		9
		10
		11
		12
		13
		14

[s 142]

- prescribed responsible person*, for chapter 7— 1
- 1 Each of the following persons is a *prescribed responsible person* for land— 2
3
- (a) if a person released a hazardous 4
contaminant contaminating the land 5
and the person is known and can be 6
located—the person; 7
- (b) the relevant local government; 8
- (c) if subparagraph (a) or (b) does not 9
apply—the owner of the land in 10
relation to whom either of the 11
following applies— 12
- (i) when the owner acquired the land 13
particulars of the land were 14
recorded in the environmental 15
management register or the 16
contaminated land register; 17
- (ii) the land became contaminated 18
after the owner acquired the land. 19
- 2 Despite paragraph 1(b), a local government 20
is a *prescribed responsible person* for land 21
only if— 22
- (a) the administering authority reasonably 23
believes— 24
- (i) the land became contaminated 25
because the local government 26
gave approval for the use of, or an 27
activity to be carried out on, the 28
land; and 29
- (ii) in giving the approval, the local 30
government did not comply with 31
the requirements under any Act in 32
relation to the approval; and 33
- (iii) the local government ought 34
reasonably to have known that 35

giving the approval would result	1
in the land becoming	2
contaminated; or	3
(b) both of the following apply—	4
(i) the local government gave	5
approval for the use of, or an	6
activity on, the land inconsistent	7
with the particulars recorded for	8
the land in the environmental	9
management register or the	10
contaminated land register;	11
(ii) the use or activity has caused	12
environmental harm.	13
3 A mortgagee who is the owner of land is not	14
an owner for paragraph 1(c).	15
<i>relevant area</i> , for chapter 5, part 10, division	16
6—see section 271(2).	17
<i>relevant land</i> , for chapter 7, part 8, see section	18
370.	19
<i>relevant land register</i> , for chapter 7, part 8, see	20
section 370.	21
<i>residual risks requirement</i> , for chapter 5, part	22
10, division 6—see section 271(3).	23
<i>show cause notice</i> —	24
(a) for chapter 7, part 8, division 2, subdivision	25
2—see section 375(1); or	26
(b) for chapter 7, part 8, division 2, subdivision	27
2—see section 391; or	28
(c) for chapter 12, part 3A, division 4, see	29
section 574E(1).	30
<i>site investigation report</i> , for relevant land, for	31
chapter 7, part 8, see section 370.	32

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<i>site management plan</i> , for relevant land, for chapter 7, part 8, see section 370.	1 2
<i>site suitability statement</i> , for relevant land, for chapter 7, part 8, see section 389(2)(a).	3 4
<i>submitter</i> —	5
(a) for an application, means an entity who makes a properly made submission about the application; or	6 7 8
(b) for chapter 7, part 8, division 3, subdivision 4, see section 397.	9 10
<i>validation report</i> , for chapter 7, part 8, see section 370.	11 12
(3) Schedule 4, definition <i>environmental investigation</i> , after ‘section 326B(2)(a)’—	13 14
<i>insert</i> —	15
or 326BA(2)	16
(4) Schedule 4, definition <i>investigation notice</i> , after ‘section 326B(2)’—	17 18
<i>insert</i> —	19
or 326BA(2)	20
(5) Schedule 4, definition <i>recipient</i> , paragraph (e)—	21
<i>omit</i> .	22
(6) Schedule 4, definition <i>registrar</i> , ‘ registrar means’—	23
<i>omit, insert</i> —	24
<i>registrar of titles</i> means	25

Part 6	Amendment of Nature Conservation Act 1992	1 2
Clause 143	Act amended	3
	This part amends the <i>Nature Conservation Act 1992</i> .	4
Clause 144	Insertion of new pt 5, div 10	5
	Part 5—	6
	<i>insert—</i>	7
	Division 10	8
	Statements of management intent	9
	100K Local government’s statement of management intent	10 11
	(1) This section applies if a local government is lawfully dealing with protected wildlife in the local government area, other than under a wildlife authority.	12 13 14 15
	(2) The Minister may, by written notice, require the local government to prepare and publish a statement of management intent for the protected wildlife, within a reasonable period stated in the notice.	16 17 18 19 20
	(3) The notice may require that the statement of management intent include stated information.	21 22
	(4) The local government must, within the stated period—	23 24
	(a) prepare a statement of management intent for the protected wildlife; and	25 26
	(b) publish the statement on the local government’s website.	27 28
	(5) The statement of management intent must include—	29 30

[s 145]

	(a) any information required under subsection (3); and	1 2
	(b) any information prescribed by regulation.	3
	(6) In this section—	4
	<i>statement of management intent</i> , for protected wildlife, means a statement about the local government’s proposed management intent for the protected wildlife.	5 6 7 8
Part 7	Amendment of Waste Reduction and Recycling Act 2011	9 10 11
Division 1	Preliminary	12
Clause 145	Act amended	13
	This part amends the <i>Waste Reduction and Recycling Act 2011</i> .	14 15
Division 2	Amendments commencing on assent	16 17
Clause 146	Amendment of s 5 (Approach to achieving Act’s objects)	18
	(1) Section 5(e), after ‘products’—	19
	<i>insert</i> —	20
	or priority waste	21
	(2) Section 5(f), ‘priority product statement’—	22
	<i>omit, insert</i> —	23

	priority statement	1
Clause 147	Amendment of s 15 (What may be included in State's waste management strategy)	2 3
	Section 15(2)(g), after 'products'—	4
	<i>insert</i> —	5
	or priority waste	6
Clause 148	Amendment of ch 4, hdg (Management of priority and other products)	7 8
	Chapter 4, heading, 'and other products'—	9
	<i>omit, insert</i> —	10
	products and priority waste	11
Clause 149	Replacement of s 74 (Purpose of chapter)	12
	Section 74—	13
	<i>omit, insert</i> —	14
	74 Purpose of chapter	15
	The purpose of this chapter is—	16
	(a) to encourage, and in particular circumstances to require, persons who are involved in the life cycle of a product to share responsibility for—	17 18 19 20
	(i) ensuring that, for the product, there is effective waste avoidance, reduction, re-use, recycling, recovery or treatment; and	21 22 23 24
	(ii) managing the impacts of the product throughout its life cycle, including end-of-use management; and	25 26 27
	(b) otherwise—to improve the management of waste that is not a product.	28 29

[s 150]

Clause 150	Insertion of new s 74A	1
	Chapter 4, part 1—	2
	<i>insert</i> —	3
	74A Definitions for ch 4	4
	In this chapter—	5
	<i>producer</i> , of a product, includes any of the following—	6
		7
	(a) the manufacturer of the product;	8
	(b) a person who imports the product into Queensland;	9
		10
	(c) a person who supplies the product in Queensland;	11
		12
	(d) a person who has a legal or equitable interest in the name under which the product is supplied in Queensland.	13
		14
		15
Clause 151	Amendment of ch 4, pt 2, hdg (Priority products)	16
	Chapter 4, part 2, heading, after ‘products’—	17
	<i>insert</i> —	18
	and priority waste	19
Clause 152	Amendment of s 75 (Preparation and notification of draft priority product statement)	20
		21
	(1) Section 75, heading, ‘priority product statement’—	22
	<i>omit, insert</i> —	23
	priority statement	24
	(2) Section 75(1)(a)—	25
	<i>omit, insert</i> —	26
	(a) prepare a draft priority statement for—	27
	(i) 1 or more products; or	28

	(ii) 1 or more categories of waste; and	1
(3)	Section 75(2)(a), ‘priority product statement’—	2
	<i>omit, insert—</i>	3
	priority statement	4
Clause 153	Amendment of s 76 (Requirements for draft priority product statement)	5
		6
(1)	Section 76, heading, ‘priority product statement’—	7
	<i>omit, insert—</i>	8
	priority statement	9
(2)	Section 76(1) and (2)—	10
	<i>omit, insert—</i>	11
	(1) The draft priority statement must state—	12
	(a) the products or category of waste intended to be included in the final statement as priority products or priority waste; and	13 14 15
	(b) how each proposed product or the proposed category of waste satisfies the criteria under section 77; and	16 17 18
	(c) the management options under consideration for each proposed product or the proposed category of waste, including, for example, a product stewardship scheme, a disposal ban under part 4 or a strategic waste planning option.	19 20 21 22 23 24
	(2) In deciding whether to include a product or category of waste in the draft priority statement, the chief executive must consider—	25 26 27
	(a) whether the product or category of waste satisfies the criteria under section 77; and	28 29

[s 154]

	(b) whether action is proposed or is currently in progress for the product or category of waste through a national approach; and	1 2 3
	(c) whether there are significant benefits from taking action to reduce impacts from disposal of the product or category of waste.	4 5 6
(3)	Section 76(4), ‘priority product statement’—	7
	<i>omit, insert—</i>	8
	priority statement	9
Clause 154	Replacement of s 77 (What are the priority product criteria for a product)	10 11
	Section 77—	12
	<i>omit, insert—</i>	13
	77 Criteria for a priority product or priority waste	14
	A product or category of waste satisfies the criteria for a priority product or priority waste if at least 2 of the following apply to the product or category of waste—	15 16 17
	(a) the product or category of waste contains hazardous or toxic substances;	18 19
	(b) there is potential to reduce the consumption of resources through improved management of the product or category of waste;	20 21 22
	(c) there is potential to reduce the environmental impacts of the disposal of the product or category of waste through improved management of the product or category of waste;	23 24 25 26 27
	<i>Examples of environmental impacts—</i>	28
	greenhouse gas emissions from landfill, occurrence of leachates	29 30
	(d) there is potential to reduce the social impacts of the disposal of the product or	31 32

	category of waste through improved management of the product or waste;	1 2
	<i>Examples of social impacts—</i>	3
	danger to waste management workers, community concern, amenity	4 5
	(e) treating or disposing of the product or category of waste involves a significant cost to the community;	6 7 8
	(f) improved management of the product or category of waste is likely to create business opportunities that would contribute to the economy.	9 10 11 12
Clause 155	Amendment of s 78 (Inclusion of invitation for voluntary product stewardship scheme)	13 14
	Section 78(1), ‘priority product statement’—	15
	<i>omit, insert—</i>	16
	priority statement	17
Clause 156	Amendment of s 79 (Finalisation of priority product statement)	18 19
	Section 79, ‘priority product statement’—	20
	<i>omit, insert—</i>	21
	priority statement	22
Clause 157	Amendment of s 80 (Approval of final priority product statement)	23 24
	Section 80, ‘priority product statement’—	25
	<i>omit, insert—</i>	26
	priority statement	27

[s 158]

Clause 158	Amendment of s 81 (Minor amendment of priority product statement)	1 2
	Section 81, ‘priority product statement’—	3
	<i>omit, insert</i> —	4
	priority statement	5
Clause 159	Amendment of s 82 (Review of priority product statement)	6 7
	Section 82, ‘priority product statement’—	8
	<i>omit, insert</i> —	9
	priority statement	10
Clause 160	Amendment of s 90 (Requirements for accreditation)	11
	Section 90(1)(m), ‘priority product statement’—	12
	<i>omit, insert</i> —	13
	priority statement	14
Clause 161	Amendment of s 91 (Accreditation)	15
	Section 91(g), ‘priority product statement’—	16
	<i>omit, insert</i> —	17
	priority statement	18
Clause 162	Amendment of s 98 (Regulation about product stewardship)	19 20
	Section 98(3)(b), ‘priority product statement’—	21
	<i>omit, insert</i> —	22
	priority statement	23

Clause 163	Amendment of s 266 (Protection of officials from liability)	1
(1)	Section 266—	2
	<i>insert—</i>	3
	(2A) This section does not apply to an official if the official is a State employee within the meaning of the <i>Public Service Act 2008</i> , section 26B(4).	4 5 6
(2)	Section 266(3), definition <i>official</i> —	7
	<i>omit, insert—</i>	8
	<i>official</i> means any of the following persons—	9
	(a) the Minister;	10
	(b) an authorised person;	11
	(c) a person acting under the direction of—	12
	(i) a person mentioned in paragraph (a) or (b); or	13 14
	(ii) the chief executive.	15
(3)	Section 266(2A) and (3)—	16
	<i>renumber</i> as section 266(3) and (4).	17
Clause 164	Amendment of schedule (Dictionary)	18
(1)	Schedule, definitions <i>priority product statement</i> , <i>producer</i> and <i>product</i> —	19 20
	<i>omit.</i>	21
(2)	Schedule—	22
	<i>insert—</i>	23
	<i>priority statement</i> means the document approved and gazetted as the priority statement under chapter 4, part 2.	24 25 26
	<i>priority waste</i> means a category of waste stated to be a priority waste under the priority statement as currently in force.	27 28 29

[s 165]

	<i>producer</i> , for chapter 4, see section 74A.	1
	<i>product</i> —	2
	(a) means a product that has reached the end of its useful life; and	3 4
	(b) includes a product that has not been used and any packaging for the product.	5 6
Division 3	Amendments commencing by proclamation	7 8
Clause 165	Amendment of s 5 (Approach to achieving Act’s objects)	9
	Section 5(i)—	10
	<i>omit, insert</i> —	11
	(i) making end of waste codes and granting end of waste approvals;	12 13
Clause 166	Amendment of s 76 (Requirements for draft priority statement)	14 15
	Section 76(1)(c), from ‘or’ to ‘option’—	16
	<i>omit, insert</i> —	17
	, a strategic waste planning option, an end of waste code or an end of waste approval	18 19
Clause 167	Replacement of ch 8 (Approval of resource for beneficial use)	20 21
	Chapter 8—	22
	<i>omit, insert</i> —	23

Chapter 8	Provisions for end of waste	1 2
Part 1	Preliminary	3
155 Purpose of chapter		4
(1)	The purpose of this chapter is to provide for the process by which the chief executive decides when and how waste stops being waste and becomes a resource.	5 6 7 8
(2)	Waste stops being a waste and becomes a <i>resource</i> when—	9 10
(a)	a registered code user manages the waste in accordance with an end of waste code; or	11 12
(b)	a holder of an end of waste approval manages the waste in accordance with the approval.	13 14 15
156 Definitions for ch 8		16
	In this chapter—	17
	<i>amend</i> , an end of waste approval, includes—	18
(a)	amending or removing a condition imposed on the approval; and	19 20
(b)	imposing a new condition on the approval; and	21 22
(c)	amending the period of the approval.	23
	<i>end of waste approval</i> see section 159(2).	24
	<i>end of waste code</i> see section 159(1).	25
	<i>material environmental harm</i> see the Environmental Protection Act, section 16.	26 27

[s 167]

registered code user means a person who is registered for an end of waste code under section 173B.

resource see section 155.

serious environmental harm see the Environmental Protection Act, section 17.

technical advisory panel see section 173G.

157 Effect of operating under end of waste code if unregistered

- (1) This section applies if—
 - (a) a person sells, gives away or uses a resource under an end of waste code; and
 - (b) the person is not a registered code user for the code.
- (2) The resource is taken to be waste until the person becomes a registered code user for the code.

158 Compliance with end of waste code

A registered code user for an end of waste code must not sell, give away or use the resource for the code unless the user complies with the requirements of the end of waste code relating to the resource.

Maximum penalty—1665 penalty units.

159 Chief executive may make end of waste codes and grant end of waste approvals

- (1) The chief executive may make a code (an *end of waste code*) for registered code users that states when a particular waste stops being a waste and becomes a resource.
- (2) The chief executive may grant an approval (an *end of waste approval*) to a person that states

when a particular waste stops being a waste and 1
becomes a resource. 2

Part 2 End of waste codes 3

Division 1 Process for making end of 4 waste codes 5

160 Public notice inviting submissions about 6 potential end of waste codes 7

- (1) The chief executive may, by notice, invite the 8
public to make a submission about whether there 9
is any particular waste or resource for which an 10
end of waste code should be prepared. 11
- (2) The notice must— 12
- (a) state— 13
- (i) that a person may make a submission 14
to the chief executive about any 15
particular waste or resource for which 16
an end of waste code should be 17
prepared; and 18
- (ii) the period, of at least 28 days, (the 19
submission period) during which the 20
submissions may be made; and 21
- (iii) how to make a submission; and 22
- (b) be published on the department’s website. 23
- (3) A submission made under this section must be in 24
the approved form. 25

161 Consideration of submissions 26

The chief executive must consider all submissions 27
made during the submission period before deciding 28

[s 167]

whether or not to make a draft end of waste code for a particular waste or resource. 1
2

162 Preparation of end of waste code by technical advisory panel 3
4

- (1) Subsection (2) applies if the chief executive decides to prepare a draft end of waste code (the *draft code*). 5
6
7
- (2) The chief executive must establish a technical advisory panel under section 173G to prepare the draft code unless, after having regard to the matters mentioned in section 163(1), the chief executive is satisfied it is unnecessary for a technical advisory panel to prepare the draft code. 8
9
10
11
12
13
14
- (3) If the chief executive establishes a technical advisory panel to prepare the draft code— 15
16
- (a) the chief executive may require the panel to include particular requirements in the draft code; and 17
18
19
- (b) the panel must prepare and give the chief executive the draft code within 6 months after being established. 20
21
22
- (4) However, the technical advisory panel may, after having regard to the matters mentioned in section 163(1) but within 2 months of being established, decide that the draft code should not be prepared. 23
24
25
26
- (5) If the technical advisory panel decides that the draft code should not be prepared, it must give the chief executive written notice of the decision, including the panel's reasons for the decision. 27
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163 Matters to be considered in preparing end of waste code	1 2
(1) In preparing a draft end of waste code, the chief executive or a technical advisory panel must have regard to the following matters—	3 4 5
(a) the objects of this Act;	6
(b) the proposed use of a particular resource under the proposed end of waste code;	7 8
(c) whether the proposed use of a particular resource may, or is likely to, cause any serious environmental harm or material environmental harm;	9 10 11 12
(d) the waste and resource management hierarchy;	13 14
(e) any other matter prescribed by regulation.	15
(2) This section does not limit the matters the chief executive or a technical advisory panel may consider in preparing a draft end of waste code.	16 17 18
164 End of waste code prepared by technical advisory panel	19 20
(1) This section applies if a technical advisory panel prepares a draft end of waste code (the <i>draft code</i>).	21 22 23
(2) Subsection (3) applies if the chief executive is satisfied a technical advisory panel has not—	24 25
(a) had regard to a matter mentioned in section 163; or	26 27
(b) included a requirement in the draft code that the chief executive required the panel to include in the draft code.	28 29 30
(3) The chief executive may—	31

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- (a) ask the technical advisory panel to amend the draft code; or 1
2
- (b) refuse to accept the draft code. 3
- (4) The chief executive may amend the draft code before publishing it under section 166. 4
5

Division 2 Making end of waste codes 6

165 Publication of draft end of waste code 7

- (1) Before the chief executive decides to make an end of waste code, the chief executive must publish the following on the department's website— 8
9
10
11
 - (a) a copy of the draft end of waste code; and 12
 - (b) a notice stating— 13
 - (i) that a person may make a submission to the chief executive about the draft end of waste code; and 14
15
16
 - (ii) the period, of at least 28 days (the *consultation period*), during which the submission may be made; and 17
18
19
 - (iii) how to make a submission. 20
- (2) The chief executive must ensure the draft end of waste code and notice continue to be available from the department's website throughout the consultation period. 21
22
23
24
- (3) The chief executive must consider all submissions made under subsection (1) before deciding whether or not to make the end of waste code. 25
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166 Notice of making end of waste code	1	
(1) If the chief executive decides to make an end of waste code, the chief executive must notify the making of an end of waste code by gazette notice.	2 3 4	
(2) The gazette notice must state—	5	
(a) the name of the end of waste code; and	6	
(b) the date the end of waste code was made; and	7 8	
(c) where a copy of the end of waste code may be inspected.	9 10	
(3) The end of waste code takes effect on the later of the following—	11 12	
(a) the day the gazette notice is published;	13	
(b) the day stated in the gazette notice for that purpose;	14 15	
(c) the day stated in the end of waste code for that purpose.	16 17	
Division 3	Amendment, cancellation or suspension of end of waste codes	18 19 20
167 Amendment of end of waste code		21
The chief executive may, on the chief executive's own initiative, amend an end of waste code.		22 23
168 Application for amendment of end of waste code		24 25
(1) A person may apply to the chief executive to amend an end of waste code (an <i>amendment application</i>).		26 27 28
(2) An amendment application must—		29

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- (a) be in the approved form; and 1
- (b) include the information prescribed by regulation; and 2
3
- (c) be accompanied by the fee prescribed by regulation. 4
5

169 Refusal of application 6

If the chief executive decides to refuse to grant an amendment application, the chief executive must, within 10 business days after making the decision, give the applicant an information notice for the decision. 7
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170 Chief executive may require additional information or documents for amendment application 12
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- (1) The chief executive may, by notice, require an applicant give the chief executive further information or documents the chief executive reasonably requires to decide the application about an amendment application within a reasonable period stated in the notice (the *stated period*). 15
16
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21
- (2) The chief executive and the applicant may, before the stated period ends, agree to extend the period. 22
23
- (3) The application is taken to be withdrawn if the applicant does not comply with the requirement within the stated period. 24
25
26

171 Cancellation or suspension of end of waste code 27
28

The chief executive may cancel or suspend an end of waste code if the chief executive is satisfied— 29
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- (a) there is no longer a use for a particular resource under the code; or 1
2
 - (b) the use of a resource under the code has caused, or is likely to cause, serious environmental harm or material environmental harm; or 3
4
5
6
 - (c) the use of particular waste or a particular resource is unlawful; or 7
8
 - (d) it is necessary or desirable to do so having regard to the objects of the Act. 9
10

172 Procedure for amending, cancelling or suspending end of waste code 11
12

- (1) This section applies if the chief executive proposes— 13
14
 - (a) to amend an end of waste code; or 15
 - (b) to cancel or suspend an end of waste code. 16
- (2) The chief executive must— 17
 - (a) give notice of the proposed action to each registered code user for the end of waste code; and 18
19
20
 - (b) publish a notice of the proposed action— 21
 - (i) on the department’s website; and 22
 - (ii) in any other way the chief executive considers appropriate. 23
24
- (3) A notice under subsection (2) must state the following— 25
26
 - (a) the action the chief executive proposes to take; 27
28
 - (b) if the proposed action is an amendment of an end of waste code—the proposed amendment; 29
30
31

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- | | | |
|------|---|----------------------------|
| (c) | if the proposed action is suspension—the proposed period of the suspension; | 1
2 |
| (d) | the reasons for the proposed action; | 3 |
| (e) | the facts and circumstances that form the basis for the reasons; | 4
5 |
| (f) | for a notice given to a registered code user—that the registered code user may, within a stated period, make a written submission to the chief executive about why the proposed action should not be taken; | 6
7
8
9
10 |
| (g) | for a notice published under subsection (2)(b)—that any person may, within a stated period, make a written submission to the chief executive about why the proposed action should not be taken. | 11
12
13
14
15 |
| (4) | The stated period must not end less than 28 days after the later of the following— | 16
17 |
| (a) | for a notice given to a registered code user—the registered code user is given the notice; | 18
19
20 |
| (b) | for a notice published under subsection (2)(b)—the notice is published. | 21
22 |
| (5) | The chief executive may decide whether or not to take the proposed action after considering— | 23
24 |
| (a) | all submissions made under subsection (3) within the stated period; and | 25
26 |
| (b) | if the proposed action is an amendment of an end of waste code— | 27
28 |
| (i) | the effect of the amendment on the use of a particular resource; and | 29
30 |
| (ii) | whether the effect of the amendment on the use of a particular resource is likely to cause any serious | 31
32
33 |

-
- environmental harm or material 1
environmental harm; and 2
- (iii) the waste and resource management 3
hierarchy; and 4
- (c) another matter prescribed by regulation. 5
- (6) If the chief executive decides to take the 6
proposed action, the chief executive must give 7
each registered code user for the end of waste 8
code an information notice for the decision 9
within 10 business days after making the 10
decision. 11
- (7) The decision takes effect for a registered user on 12
the later of the following days— 13
- (a) the day the information notice is given to the 14
user; 15
- (b) a later day stated in the information notice 16
for that purpose. 17
- 173 Publication of amended end of waste code** 18
- If the chief executive amends an end of waste code 19
under section 172, the chief executive must publish a 20
copy of the amended end of waste code— 21
- (a) on the department’s website; and 22
- (b) in any other way the chief executive 23
considers appropriate. 24
- 173A Minor amendment of end of waste code** 25
- (1) The chief executive may make a minor 26
amendment of an end of waste code by 27
publishing a notice of the amendment— 28
- (a) on the department’s website; and 29
- (b) in any other way the chief executive 30
considers appropriate. 31

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- (2) The chief executive may make the minor amendment to the end of waste code—
- (a) on the chief executive’s own initiative; or
 - (b) on an application made under section 168 for a minor amendment of an end of waste code.
- (3) This section applies despite section 172.
- (4) In this section—
- minor amendment*, of an end of waste code, means an amendment of the code—
- (a) to correct a minor or formal error in the code; or
 - (b) to make another change that is not a change of substance and does not adversely affect the interests of a registered code user or a person who is likely to receive a resource from the registered code user.

Division 4 Registration of end of waste code users

173B Registration of end of waste code users

- (1) A person becomes a registered code user for an end of waste code by giving the chief executive a notice that the person intends to become a registered code user for the code.
- (2) The notice must—
- (a) be in the approved form; and
 - (b) include the information prescribed by regulation; and
 - (c) be accompanied by the fee prescribed by regulation.

-
- 173C Cancellation or suspension of registration** 1
- (1) The chief executive may cancel or suspend a registered code user's registration if the chief executive reasonably believes a registered code user has failed to comply with a requirement of an end of waste code. 2
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6
- (2) The chief executive may act under subsection (1) regardless of whether the chief executive has given the registered code user a show cause notice under chapter 11. 7
8
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- 173D Procedure for cancelling or suspending registration** 11
12
- (1) Before cancelling or suspending a registered code user's registration under section 173C, the chief executive must give the person a notice stating the following— 13
14
15
16
- (a) the action the chief executive proposes to take; 17
18
- (b) if the proposed action is suspension—the period of the suspension; 19
20
- (c) the reasons for the proposed action; 21
- (d) the facts and circumstances that form the basis for the reasons; 22
23
- (e) that the person may, within a stated period, make a written submission to the chief executive about why the proposed action should not be taken. 24
25
26
27
- (2) For subsection (1)(e), the stated period must not end less than 28 days after the registered code user is given the notice. 28
29
30
- (3) The chief executive must consider any submissions made under subsection (1). 31
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- (4) If the chief executive decides to take the proposed action, the chief executive must, within 5 business days after making the decision, give the registered code user an information notice for the decision. 1
2
3
4
5
- (5) The decision takes effect the day the information notice is given to the registered code user. 6
7
- 173E Particular circumstances when end of waste approval lapses** 8
9
- (1) This section applies if the holder of an end of waste approval relating to a particular waste or resource becomes a registered code user for an end of waste code for the same waste or resource. 10
11
12
13
- (2) The person's end of waste approval lapses. 14
- 173F Register of registered code users** 15
- (1) The chief executive must maintain a register of registered code users for each end of waste code. 16
17
- (2) The register may be kept in electronic form. 18
- Division 5 Miscellaneous** 19
- 173G Technical advisory panels** 20
- (1) The chief executive may establish a panel (a *technical advisory panel*)— 21
22
- (a) to— 23
- (i) consider matters relating to the development of a draft end of waste code; and 24
25
26
- (ii) if necessary, prepare a draft end of waste code; or 27
28

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- | | | |
|--|--|----------------------|
| (b) | to consider and provide advice, information or comment about— | 1
2 |
| (i) | a draft end of waste code prepared by the chief executive; or | 3
4 |
| (ii) | an amendment of an end of waste code. | 5 |
| (2) | A regulation may prescribe matters for a technical advisory panel, including, but not limited to, the following matters— | 6
7
8 |
| (a) | the terms of reference for the panel; | 9 |
| (b) | the appointment of members of the panel; | 10 |
| (c) | the composition of the panel membership; | 11 |
| (d) | the resignation of members of the panel; | 12 |
| (e) | the disclosure of interests of members of the panel; | 13
14 |
| (f) | the termination of appointment of members of the panel. | 15
16 |
| 173H Chief executive may seek advice, comment or information about pt 2 | | 17
18 |
| (1) | The chief executive may ask any entity for advice, comment or information about the operation of this part, including, for example, the operation of an end of waste code. | 19
20
21
22 |
| (2) | There is no particular way advice, comment or information must be asked for and received and the request may be by public notice. | 23
24
25 |

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Part 3	End of waste approvals	1
Division 1	Grant of end of waste approvals	2 3
173I Application		4
(1)	A person may apply to the chief executive for an end of waste approval for 1 kind of waste to be used as a resource.	5 6 7
(2)	The application must—	8
(a)	be in the approved form; and	9
(b)	include the information prescribed by regulation; and	10 11
(c)	be accompanied by a written report, in the approved form, prepared by a suitably qualified person about the application; and	12 13 14
(d)	be accompanied by the fee prescribed by regulation.	15 16
(3)	A regulation may prescribe matters relating to the preparation of a written report about an application.	17 18 19
(4)	In this section—	20
	<i>suitably qualified person</i> , in relation to a written report, means a person who—	21 22
(a)	has the qualifications and experience appropriate for preparing the report; and	23 24
(b)	meets the criteria, if any, prescribed by regulation.	25 26

-
- 173J Chief executive may require additional information or documents** 1
2
- (1) The chief executive may, by notice given within 3
20 business days after receiving the application, 4
require the applicant give the chief executive 5
further information or documents the chief 6
executive reasonably requires to decide the 7
application within a reasonable period stated in 8
the notice (the *stated period*). 9
- (2) The chief executive and the applicant may, before 10
the stated period ends, agree to extend the period. 11
- (3) The application is taken to be withdrawn if the 12
applicant does not comply with the requirement 13
within the stated period. 14
- 173K Deciding application** 15
- (1) The chief executive must decide to grant or 16
refuse to grant the application within 20 business 17
days after the later of the following days (the 18
decision period)— 19
- (a) the day the chief executive receives the 20
application; 21
- (b) if further information or documents are 22
requested under section 173J—the day the 23
chief executive receives the information or 24
documents. 25
- (2) However, the chief executive may extend the 26
decision period by giving the applicant, within 20 27
business days after the end of the decision period, 28
a notice that the chief executive has extended the 29
decision period. 30
- (3) The extension must not be more than 20 business 31
days. 32
- (4) Only 1 extension may be made under subsection 33
(2). 34

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- (5) A failure to make a decision under this section is taken to be a decision to refuse to grant the application. 1
2
3

173L Criteria for deciding application 4

- (1) In deciding whether to grant or refuse to grant the application, the chief executive must consider the following— 5
6
7
- (a) the objectives of this Act; 8
 - (b) the waste and resource management hierarchy; 9
10
 - (c) whether the proposed management of a particular waste or the use of a particular resource is likely to cause any serious environmental harm or material environmental harm; 11
12
13
14
15
 - (d) whether it is reasonably practicable for an end of waste code to be made for the particular waste or resource the subject of the application; 16
17
18
19
 - (e) another matter prescribed by regulation. 20
- (2) This section does not limit the matters the chief executive may consider in making the decision. 21
22

173M Grant of application 23

- (1) If the chief executive decides to grant the application, the chief executive must, within 5 business days after making the decision, give the applicant a notice stating the following— 24
25
26
27
- (a) that the end of waste approval has been granted; 28
29
 - (b) the particular waste or resource to which the approval relates; 30
31

(c) the person to whom the approval is granted;	1
(d) when the approval ends;	2
(e) any conditions imposed on the approval;	3
(f) if conditions are imposed on the approval—the reasons for the conditions.	4 5
(2) If the chief executive imposes any conditions on the end of waste approval, the notice must include or be accompanied by an information notice for the decision to impose the conditions.	6 7 8 9
173N Conditions of end of waste approval	10
(1) The chief executive may impose the conditions on an end of waste approval the chief executive considers are necessary or desirable.	11 12 13
(2) A regulation may prescribe the types of conditions that may be imposed by the chief executive under subsection (1).	14 15 16
173O Refusal of application	17
If the chief executive decides to refuse to grant the application, the chief executive must, within 10 business days of making the decision, give the applicant an information notice for the decision.	18 19 20 21
173P Compliance with condition of end of waste approval	22 23
(1) This section applies to a person who is the holder of, or is acting under, an end of waste approval.	24 25
(2) The person must comply with the conditions of the approval.	26 27
Maximum penalty—1665 penalty units.	28
<i>Note—</i>	29

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If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 268, to have also committed the offence. 1
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173Q Holder of end of waste approval responsible for ensuring conditions complied with 5
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- (1) The holder of an end of waste approval must ensure everyone acting under the approval complies with the conditions of the approval. 7
8
9
- (2) If another person acting under the approval commits an offence against section 173P, the holder also commits an offence, namely, the offence of failing to ensure the other person complies with the conditions. 10
11
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13
14
- Maximum penalty—1665 penalty units. 15
- (3) Evidence that the other person has been convicted of an offence against section 173P while acting under the approval is evidence that the holder committed the offence of failing to ensure the other person complies with the conditions. 16
17
18
19
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21
- (4) However, it is a defence for the holder to prove— 22
- (a) the holder issued appropriate instructions and used all reasonable precautions to ensure compliance with the conditions; and 23
24
25
- (b) the offence was committed without the holder's knowledge; and 26
27
- (c) the holder could not by the exercise of reasonable diligence have stopped the commission of the offence. 28
29
30

Division 2	Transfer or amendment of end of waste approvals on application	1 2 3
173R Definitions for div 2		4
In this division—		5
<i>amendment application</i> see section 173S(1)(a).		6
<i>transfer application</i> see section 173S(1)(b).		7
173S Application for transfer or amendment of end of waste approval		8 9
(1) The holder of an end of waste approval may apply to the chief executive to—		10 11
(a) amend the approval (an <i>amendment application</i>); or		12 13
(b) transfer the approval to another person (a <i>transfer application</i>).		14 15
(2) The amendment application must—		16
(a) be in the approved form; and		17
(b) include the information prescribed by regulation; and		18 19
(c) be accompanied by a written report about the application prepared, in the approved form, by a suitably qualified person; and		20 21 22
(d) be accompanied by the fee prescribed by regulation.		23 24
(3) The transfer application must—		25
(a) be in the approved form; and		26
(b) include the information prescribed by regulation; and		27 28

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- (c) be accompanied by the signed consent of the proposed transferee; and
- (d) be accompanied by the fee prescribed by regulation.
- (4) A regulation may prescribe matters relating to the preparation of a written report about an amendment application.
- (5) In this section—
- suitably qualified person*, in relation to a written report about an amendment application, means a person who—
- (a) has the qualifications and experience appropriate for preparing the report; and
- (b) meets the criteria, if any, prescribed by regulation.
- 173T Chief executive may require additional information or documents for amendment application**
- (1) The chief executive may, by notice, require an applicant give the chief executive further information or documents the chief executive reasonably requires to decide an amendment application within a reasonable period stated in the notice (the *stated period*).
- (2) The chief executive and the applicant may agree to extend the stated period for giving the information or documents.
- (3) The application is taken to be withdrawn if the applicant does not comply with the requirement within the stated period.

173U Decision on amendment application

- 1
- (1) In deciding whether or not to grant an amendment application, the chief executive must consider—
- 2
3
4
- (a) the effect of the amendment on the management of a particular waste or the use of a particular resource; and
- 5
6
7
- (b) whether the effect of the amendment on the management of a particular waste or the use of a particular resource may, or is likely to, cause any serious environmental harm or material environmental harm; and
- 8
9
10
11
12
- (c) the waste and resource management hierarchy; and
- 13
14
- (d) any other matter prescribed by regulation.
- 15
- (2) The chief executive must decide to grant or refuse to grant the application within 10 business days after the later of the following days (the *decision period*)—
- 16
17
18
19
- (a) the day the chief executive receives the application;
- 20
21
- (b) if additional information or documents are requested under section 173T—the day the chief executive receives the information.
- 22
23
24
- (3) However, the chief executive may, by written notice given to the applicant before the end of the decision period, extend the period mentioned in subsection (2) by no more than 20 business days.
- 25
26
27
28
- (4) Only 1 extension may be made under subsection (3).
- 29
30
- (5) If the chief executive decides to grant the application, the chief executive must, within 5 business days of making the decision, give the applicant a notice stating—
- 31
32
33
34

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- (a) that the application has been granted; and 1
- (b) any new conditions imposed on the approval; and 2
3
- (c) any existing conditions amended for the approval; and 4
5
- (d) the day the amendment takes effect. 6
- (6) If the chief executive decides to refuse to grant the application, the chief executive must, within 10 business days of making the decision, give the applicant an information notice for the decision. 7
8
9
10
- (7) A failure to make a decision under subsection (2) is taken to be a decision to refuse the application. 11
12

173V Decision on transfer application 13

- (1) The chief executive must consider a transfer application and decide to— 14
15
 - (a) approve the transfer; or 16
 - (b) refuse the transfer. 17
- (2) The decision must be made within 10 business days after the transfer application is received (the *decision period*). 18
19
20
- (3) However, the chief executive may, by written notice given to the applicant before the end of the decision period, extend the period by no more than 20 business days. 21
22
23
24
- (4) Only 1 extension may be made under subsection (3). 25
26
- (5) If the chief executive decides to refuse to grant the application, the chief executive must, within 10 business days of making the decision, give the applicant an information notice for the decision. 27
28
29
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Division 3	Amendment, cancellation or suspension of end of waste approval	1 2 3
173W Amendment of end of waste approval		4
The chief executive may, on the chief executive's own initiative, amend an end of waste approval.		5 6
173X Cancellation or suspension of an end of waste approval		7 8
(1) The chief executive may cancel or suspend an end of waste approval if the chief executive is satisfied—		9 10 11
(a) there is no longer a use for a particular resource under the approval; or		12 13
(b) the management of a particular waste or the use of a particular resource under the approval has caused, or is likely to cause, serious environmental harm or material environmental harm; or		14 15 16 17 18
(c) the use of particular waste or a particular resource is unlawful; or		19 20
(d) the approval was granted because of a materially false or misleading representation or declaration; or		21 22 23
(e) the approval was granted on the basis of particular matters or information that have changed and the change is likely to cause material environmental harm or serious environmental harm; or		24 25 26 27 28
(f) a condition imposed on the approval has not been complied with; or		29 30

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- (g) a request for information about the approval under section 173ZB has not been complied with. 1
2
3
- (2) The chief executive may also cancel an end of waste approval if— 4
5
 - (a) an end of waste code for the particular resource to which the end of waste approval relates is in effect; and 6
7
8
 - (b) the chief executive reasonably believes the holder of the end of waste approval may operate under the end of waste code. 9
10
11

173Y Procedure for amending, cancelling or suspending end of waste approval 12
13

- (1) This section applies if the chief executive proposes to— 14
15
 - (a) amend an end of waste approval; or 16
 - (b) cancel or suspend an end of waste approval. 17
- (2) The chief executive must give notice of the proposed action to the holder of the approval. 18
19
- (3) The notice must state the following— 20
 - (a) the action the chief executive proposes to take; 21
22
 - (b) if the proposed action is an amendment—the proposed amendment; 23
24
 - (c) if the proposed action is suspension—the period of the suspension; 25
26
 - (d) the grounds for the proposed action; 27
 - (e) the facts and circumstances that form the basis for the grounds; 28
29
 - (f) that the holder of the approval may, within a stated period, make a written submission to 30
31

-
- the chief executive about why the proposed
action should not be taken. 1
2
- (4) The stated period must not end less than 28 days 3
after the holder of the end of waste approval is 4
given the notice. 5
- (5) The chief executive must decide whether or not 6
to take the proposed action within 20 business 7
days after the end of the stated period. 8
- (6) However, the chief executive may, by written 9
notice given to the applicant before the end of the 10
stated period, extend the stated period mentioned 11
in subsection (5) by no more than 20 business 12
days. 13
- (7) Only 1 extension may be made under subsection 14
(6). 15
- (8) In deciding whether or not to take the proposed 16
action, the chief executive must consider the 17
following— 18
- (a) all submissions made by the holder of the 19
end of waste approval within the stated 20
period; 21
- (b) if the proposed action is an amendment— 22
- (i) the effect of the amendment on the 23
management of a particular waste or 24
the use of a particular resource; and 25
- (ii) whether the effect of the amendment 26
on the management of a particular 27
waste or the use of a particular resource 28
is likely to cause any serious 29
environmental harm or material 30
environmental harm; and 31
- (iii) the waste and resource management 32
hierarchy; 33
- (c) another matter prescribed by regulation. 34
-

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- (9) If the chief executive decides to take the proposed action, the chief executive must, within 10 business days after making the decision, give the holder of the end of waste approval an information notice for the decision. 1
2
3
4
5
- (10) The decision takes effect on the later of the following days— 6
7
- (a) the day the information notice is given to the holder of the end of waste approval; 8
9
- (b) a later day stated in the information notice for that purpose. 10
11

173Z Minor amendment of end of waste approval 12

- (1) The chief executive may make a minor amendment of an end of waste approval by giving notice of the amendment to the holder of the approval. 13
14
15
16
- (2) This section applies despite section 173Y. 17
- (3) In this section— 18
- minor amendment*, of an end of waste approval, means an amendment of the approval— 19
20
- (a) to correct a minor or formal error in the approval; or 21
22
- (b) to make another change that is not a change of substance and does not adversely affect the interests of the holder of the approval or a person who is likely to receive a resource from the holder. 23
24
25
26
27

Division 4	Surrender of end of waste approval	1 2
173ZA	Surrendering end of waste approval	3
	The holder of an end of waste approval may surrender the approval by giving the chief executive written notice of the surrender.	4 5 6
Division 5	Miscellaneous	7
173ZB	Chief executive may request relevant information about end of waste approval	8 9
(1)	The chief executive, by notice given to the holder of an end of waste approval, may require the holder to give the chief executive information about the approval.	10 11 12 13
(2)	The notice must—	14
(a)	be in the approved form; and	15
(b)	state the information required; and	16
(c)	state the period within which the information is to be given to the chief executive; and	17 18 19
(d)	state why the information is required.	20
173ZC	Chief executive may seek advice, comment or information about pt 3	21 22
	The chief executive may ask any entity for advice, comment or information about the operation of this part at any time.	23 24 25

[s 168]

Clause 168	Amendment of s 245 (Definitions for ch 11)	1
	(1) Section 245, definition <i>prescribed provision</i> , paragraph (a), ‘44(3), 52(1)’—	2 3
	<i>omit, insert—</i>	4
	44(2), 52(2)	5
	(2) Section 245, definition <i>prescribed provision</i> , paragraph (a), ‘167’—	6 7
	<i>omit, insert—</i>	8
	158, 173P	9
Clause 169	Amendment of s 268 (Executive officer may be taken to have committed offence)	10 11
	Section 268(4), definition <i>deemed executive liability provision</i> , second dot point—	12 13
	<i>omit, insert—</i>	14
	• section 158	15
	• section 173P	16
Clause 170	Replacement of ch 16 (Repeal and amendment of other legislation)	17 18
	Chapter 16—	19
	<i>omit, insert—</i>	20

Chapter 16	Transitional provisions for Environmental Protection and Other Legislation Amendment Act 2014	1
		2
		3
		4
		5
		6
		7
302	Definitions for ch 16	8
	In this chapter—	9
	<i>amending Act</i> means the <i>Environmental Protection and Other Legislation Amendment Act 2014</i> .	10
		11
		12
	<i>former Act</i> means this Act as in force immediately before the commencement.	13
		14
	<i>general approval</i> means a general approval under the former Act.	15
		16
	<i>specific approval</i> means a specific approval under the former Act.	17
		18
303	Existing general approvals	19
(1)	This section applies to a general approval that was in force immediately before the commencement.	20
		21
		22
(2)	The general approval continues in force for its term provided for under the former Act.	23
		24
(3)	Despite the replacement of chapter 8 under the amending Act, the following provisions as in force under the former Act continue to apply for the general approval—	25
		26
		27
		28
(a)	chapter 8, part 5;	29

[s 170]

- (b) chapter 8, part 6, division 2 to the extent it provides for the cancellation or suspension of an approval; 1
2
3
 - (c) chapters 9, 10, 11 and 14 to the extent they relate to a general approval. 4
5
 - (4) Subsection (5) applies if— 6
 - (a) an end of waste code is made; and 7
 - (b) the end of waste code relates to a particular waste or resource to which the general approval relates. 8
9
10
 - (5) The general approval ends on the later of the following days— 11
12
 - (a) the day before the end of waste code takes effect; 13
14
 - (b) a later day fixed by the chief executive for that purpose by notice published on the department’s website. 15
16
17
- 304 Existing specific approvals** 18
 - (1) This section applies if, immediately before the commencement, a person was the holder of a specific approval under the former Act. 19
20
21
 - (2) From the commencement, the specific approval is taken to be an end of waste approval for the particular resource or waste to which the specific approval relates. 22
23
24
25
- 305 Existing applications** 26
 - (1) This section applies to any of the following applications made under the former Act but not decided before the commencement— 27
28
29
 - (a) an application for a general approval or specific approval; 30
31

	(b) an application for an amendment or transfer of a general approval or specific approval.	1 2
	(2) On the commencement, the application lapses.	3
	306 Existing show cause procedure	4
	(1) This section applies if, before the commencement—	5 6
	(a) the chief executive gave a person operating under a general approval, or the holder of a specific approval, a show cause notice under the former Act, section 246; and	7 8 9 10
	(b) the chief executive had not decided whether or not to give the person a compliance notice.	11 12 13
	(2) The chief executive must decide under the former Act whether or not to give the person a compliance notice.	14 15 16
Clause 171	Amendment of schedule (Dictionary)	17
	(1) Schedule, definitions <i>amend</i> , <i>approval</i> , <i>best practice environmental management</i> , <i>disqualifying event</i> , <i>environmental nuisance</i> , <i>general approval</i> , <i>holder</i> , <i>resource</i> and <i>specific approval</i> —	18 19 20 21
	<i>omit</i> .	22
	(2) Schedule—	23
	<i>insert</i> —	24
	<i>amend</i> , an end of waste approval, for chapter 8, see section 156.	25 26
	<i>amendment application</i> , for chapter 8, part 3, division 2, see section 173S(1)(a).	27 28
	<i>business days</i> does not include a business day that occurs during the period starting on 20	29 30

[s 172]

	December in a year and ending on 5 January in the following year.	1 2
	<i>end of waste approval</i> , for chapter 8, see section 159.	3 4
	<i>end of waste code</i> , for chapter 8, see section 159.	5
	<i>registered code user</i> , for an end of waste code, for chapter 8, see section 156.	6 7
	<i>resource</i> , for chapter 8, see section 155.	8
	<i>technical advisory panel</i> , for chapter 8, part 2, see section 173G.	9 10
	<i>transfer application</i> , for chapter 8, part 3, division 2, see section 173S(1)(b).	11 12
(3)	Schedule, definitions <i>material environmental harm</i> and <i>serious environmental harm</i> , ‘155’—	13 14
	<i>omit, insert</i> —	15
	156	16

Part 8	Amendment of Wet Tropics World Heritage Protection and Management Act 1993	17 18 19
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Clause 172	Act amended	20
	This part amends the <i>Wet Tropics World Heritage Protection and Management Act 1993</i> .	21 22

Clause 173	Amendment of s 34 (Protection from liability)	23
	Section 34—	24
	<i>insert</i> —	25

[s 174]

- (4) This section does not apply to a person if the person is a State employee within the meaning of the *Public Service Act 2008*, section 26B(4).

Part 9 **Consequential and minor amendments**

- Clause 174** **Acts amended in sch 1**
- Schedule 1 amends the Acts it mentions.

Schedule 1	Consequential and minor amendments	1
		2
	section 174	3
Biological Control Act 1987		4
1	Section 9(2) and (3), ‘authority’—	5
	<i>omit, insert—</i>	6
	Authority	7
Environmental Protection Act 1987		8
1	Section 320D(1), ‘320B(2)’—	9
	<i>omit, insert—</i>	10
	320B(3)	11
2	Section 326E(3), definition <i>recipient</i>, ‘or 326B(2)’—	12
	<i>insert—</i>	13
	, 326B(2) or 326BA(2)	14
3	Section 326F(4), definition <i>recipient</i>, after ‘326B(2)’—	15
	<i>insert—</i>	16
	or 326BA(2)	17
4	Section 326G(9), definition <i>recipient</i>, after ‘326B(2)’—	18
	<i>insert—</i>	19
	or 326BA(2)	20

