Impact Analysis Statement

Summary IAS

Details

Lead department	Department of the Environment, Tourism, Science and Innovation
Name of the proposal	Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Bill 2025
Submission type	Summary IAS
Title of related legislative or regulatory instrument	*Environmental Protection Act 1994* (EP Act) *Environmental Protection Regulation 2019* (EP Regulation) *Forestry Act 1959* (Forestry Act) *Nature Conservation Act 1992* (NC Act) *Planning Act 2016* (Planning Act) *Recreation Areas Management Act 2006* (RAM Act) *State Development and Public Works Organisation Act 1971* (SDPWO Act) *State Penalties Enforcement Regulation 2014* *Waste Reduction and Recycling Act 2011* (WRR Act) *Water Act 2000* (Water Act)
Date of issue	20 November 2025

Proposal type	Details
Minor and machinery in nature	The following proposals to the EP Act are minor and machinery in nature: • clarification that environmental authority (EA) holders who have fallen out of the progressive rehabilitation and closure plan (PRCP) framework due to a lapsed application may re-apply; • clarification of approval provisions regarding transitional applications for PRCP schedules; • clarification in procedure for seizure of a thing; • clarification of lapse of residual risk requirement; • correction to allow for the intended effect of a change to an amendment application for an EA; and • clarification of requirements for third-party accreditation programs. The following proposals to the NC Act are minor and machinery in nature: • consistency in authorised officer functions and powers where these intersect with the *Planning Act 2016* but relate to the protection of a relevant NC Act matter; and • clarification of the definition of 'protected area' in the NC Act. The following proposals to the Water Act are minor and machinery in nature:

	• clarification of the scope of minor amendments to underground water impact reports; and • clarification of matters that constitute a make good agreement. *Clarification that EA holders who have fallen out of the progressive rehabilitation and closure plan framework due to a lapsed application may re-apply* The proposal is a correction to the EP Act to address unintended legislative gaps and remove regulatory uncertainty in the transition for EA holders into the PRCP framework. It responds to a gap which fails to provide a pathway for reapplication where an EA holder's PRCP application has lapsed under sections 129 (application not properly made) or 147 (no response to information request). In circumstances where the PRCP application has fallen out of the PRCP framework for a reason such as lapsing, refusal or non-compliance, and there is not an existing pathway in the legislation for re-applying, it is proposed a relevant EA holder will have 60 business days to re-apply. There will be no limit to how often this may be used. This ensures EA holders are not disadvantaged if their PRCP application lapses due to procedural issues. The proposal will enhance efficiency without change to regulatory policy or introducing new costs to business, government or the community. This proposal is therefore minor in nature, and no further regulatory impact analysis is required. *Clarification of approval provisions regarding transitional applications for PRCP schedules* Following consultation, the proposed amendment to the EP Act to create a new category of approval for a PRCP has been revised to provide greater clarity regarding the administering authority's decision-making considerations. Specifically, an amendment to section 755 is being progressed to insert a new clarifying provision that explicitly allows the administering authority to consider the historical context of a previously assessed application when transitioning an EA into the PRCP framework. This change is a minor amendment intended to address stakeholder concerns about regulatory uncertainty and ensure that assessments take into consideration legacy conditions and operational history of the site, as previously intended by the transition provisions, thereby supporting a more consistent and practical implementation of the PRCP framework for existing EA holders. The change in the proposal will not alter the rights or obligations of persons or businesses, and will not result in new costs to business, government or the community. Therefore, no further regulatory impact analysis is required. *Clarification in procedure for seizure of a thing* The proposal is a minor update to the EP Act to clarify elements within the existing investigation and enforcement procedures for seizure of a thing. The EP Act provides for an authorised person to seize a thing subject to its potential forfeiture upon court conviction of an offence. The proposal clarifies

	that this seizure includes restricting access to the thing or making the thing inoperable and updates receipt and information notice details to be provided for seized things. The proposal will better operationalise existing rights and obligations under the EP Act, enhancing efficiency and compliance without any substantive change to regulatory policy or new costs to business, government or the community. This proposal is therefore minor in nature, and no further regulatory impact analysis is required. *Clarification of lapse of residual risk requirement* The proposal is a minor update to the EP Act to provide for the intended effect of the lapse of a residual risk requirement which is imposed on a surrender application for an EA for a resource activity under section 271, by providing that the residual risk requirement does not exist in perpetuity. The proposal will not alter the operation or intent of the provision but will remove ambiguity by clarifying relevant timeframes. The proposal will not alter the rights or obligations of persons or businesses, and will not result in new costs to business, government or the community. Therefore, no further regulatory impact analysis is required. *Correction for the intended effect of a change to an amendment application for an EA* The proposal is a correction to section 238 of the EP Act to ensure the process for handling changes to amendment applications operates as intended. The intent is that the effect of a change to an amendment application (other than a minor or agreed change) is to stop the assessment process on the day the administering authority receives the change notice. Where the information stage applies, the process starts again from the beginning of the information stage. The current wording of the EP Act may inadvertently allow for a shortening of the information stage when a change to an amendment application is made. This is inconsistent with the intended process. The correction will ensure that the timing of application process stages remains consistent with the original intent, without altering the rights or obligations of persons or businesses. Since the correction does not impose new obligations or remove existing rights, no further regulatory impact analysis is required. *Clarification of requirements for third-party accreditation programs* The proposal involves minor updates to the EP Act for the clarification of certain details required for third-party accreditation programs for Reef protection measures. The minor amendments include updating referencing for location descriptions, dates, and time measurement, to provide greater clarity and consistency in the requirements set for program recognition for the benefit of industry and the administering authority. The proposal does not alter the rights or obligations of persons or businesses, and results in no or negligible costs or impact. Therefore, no further regulatory impact analysis is required. *Consistency in authorised officer functions under the NC Act and powers where these intersect with the Planning Act 2016* The proposal is a minor update to the NC Act to enable authorised officers to use their existing powers to investigate an offence related to an NC Act

	matter that is protected under the Planning Act. The proposal addresses an administrative gap in authorised officer powers and will ensure the efficient and effective enforcement of matters regulated under the NC Act and Planning Act without altering the rights or obligations of persons or businesses. Therefore, no further regulatory impact analysis is required. *Clarification of the definition of 'protected area'* The proposal involves a clerical update to the dictionary definition of the term *'protected area'* in the NC Act to ensure it properly references the different meanings and applications of the term throughout the Act. This will aid in the interpretation and navigation of the NC Act to support greater clarity, more accurate decision-making and efficacy within the regulatory framework. The proposal will streamline regulatory comprehension without any substantive change to regulatory policy or new costs to business, government or the community. Therefore no further regulatory impact analysis is required. *Clarification of the scope of minor amendments* The proposal involves an update to the Water Act to clarify the scope and extent of the minor amendments the chief executive may make to an approved underground water impact report or final report. The proposal clarifies the minor amendments which may be made under section 391(1)(a) must not adversely affect a tenure holder or another person. The proposal will not alter the rights or obligations of persons or businesses, and will not result in new costs to business, government or the community. Therefore, no further regulatory impact analysis is required. *Clarification of matters that constitute a make good agreement* The proposal is a minor update to the Water Act to clarify, as originally intended, the matters for a make good agreement, noting any land access provided to the resource tenure holder is for make good purposes only unless the parties explicitly agree otherwise. The proposal will not alter the rights or obligations of persons or businesses, and will not result in new costs to business, government or the community. Therefore, no further regulatory impact analysis is required. *Consequential amendments to regulations to give effect to proposals* A number of minor consequential amendments to the EP Regulation and the State Penalties Enforcement Regulation 2014 will give proper effect to the proposals. The consequential amendments are minor and no further regulatory impact analysis is required.
Regulatory proposals where no RIA is required	The following proposals under the EP Act do not require a RIA: • removal of the public interest evaluation process in the progressive rehabilitation and closure plan framework; • streamline public notification in environmental impact statement process; • removal of plan requirements for minor PRCP amendments; and • streamlining of EA applications for coordinated projects for which an impact assessment report was prepared under the *State Development and Public Works Organisation Act 1971.*

	Both the consequential amendment to allow funding for the functions of the Office of Groundwater Impact Assessment proposal under the Water Act and the single integrated permission for tourism operators on protected areas also do not require a RIA. *Removal of the public interest evaluation process in the progressive rehabilitation and closure plan framework* The proposal involves removing the public interest evaluation (PIE) process from the PRCP framework to reduce unnecessary financial and administrative burden for both industry and government. The PIE process adds unnecessary complexity and duplication to the assessment as public interest considerations are already addressed in PRCP applications. This duplication reduces certainty for industry, increases administrative burden for both proponents and government, and can cause delays in rehabilitation outcomes. The proposal to remove the PIE process is a streamlining, deregulatory measure which does not increase costs or regulatory burden on business or the community. Transitional provisions have been included to manage any active assessment processes and clarify how they will be handled after commencement. No regulatory impact analysis is required under the Queensland Government's Better Regulation Policy. *Streamline public notification in environmental impact statement process* The proposal removes unnecessary regulatory burden by removing the requirement in the EP Act to publish the draft terms of reference (TOR) for the environmental impact statement (EIS) process (under section 43), which is additional to the requirement to publish the draft EIS inviting public comment (under section 51). The section 43 requirement to publish the draft TOR delays decision-making within the EIS process, and creates administrative burden for industry, community stakeholders and government. As submissions received from this publication often duplicate the submissions received upon publication of the draft EIS under section 51, the legislative requirement for two rounds of publication provides limited benefit to the EIS process. Any benefits seen as a result of the section 43 requirement to publish are able to be maintained in the EIS process through non-regulatory consultative measures, including through the publication of comprehensive environmental issues information within the TOR approved form. The proposal is a streamlining, deregulatory measure which does not increase costs or regulatory burden on business or the community. No regulatory impact analysis is required under the Queensland Government's Better Regulation Policy. *Removal of PRC plan requirements for minor PRCP amendments* The proposal is to remove the requirement to update a PRC plan when an amendment application is determined to be a minor amendment to the approved PRCP Schedule. Minor amendments are associated with low

	environmental risks and involve limited operational change. The current requirement to update the PRCP or minor amendments, a separate document which does not require approval, imposes administrative burden on both industry and government without providing benefit to the PRCP Schedule amendment decision. The proposal is a deregulatory measure to streamline regulatory requirements and reduce administrative burden, while maintaining necessary environmental approval processes. The proposal does not increase costs or regulatory burden on business or the community. No regulatory impact analysis is required under the Queensland Government's Better Regulation Policy. *Streamlining of EA applications for coordinated projects for which an impact assessment report was prepared under the State Development and Public Works Organisation Act 1971 (SDPWO Act)* The proposal reduces duplication between the impact assessment report (IAR) process under the SDPWO Act and EA application process under the EP Act, by removing specific application stages when they have been conducted through the IAR process. The proposal will streamline the EA application process for projects where an IAR has been prepared under the SDPWO Act, aligning these processes with the efficiencies already afforded to projects assessed through an environmental impact statement (EIS). Extending these streamlining benefits to the IAR process will reduce regulatory burden on proponents, provided the draft IAR sufficiently addresses the requirements of the EP Act. These benefits will apply only where the proponent does not change the project's environmentally relevant activities between public notification of the IAR, evaluation by the Coordinator-General, and applying for the relevant EA. The amendments are deregulatory in nature and impose no costs on business or the community. No regulatory impact analysis is required under the Queensland Government's Better Regulation Policy. *Consequential amendment to allow funding for the functions of the Office of Groundwater Impact Assessment* The proposal is a consequential amendment to the Water Act following the expansion of the functions of the Office of Ground Water Impact Assessment (OGIA) by the passing of the *Mineral and Energy Resources and Other Legislation Amendment Act 2024.* The proposal allows for the funding required for the expanded functions of the OGIA, through the levy mechanism in the Water Act. The impacts of this change were previously assessed and therefore no further regulatory impact analysis is required under *The Queensland Government Better Regulation Policy*. *Single integrated permission for tourism operators on protected areas* Authorisation may be granted for tourism activities and events across various protected areas, recreation areas, State forests and marine parks. The proposal involves amendments to the Forestry Act and the RAM Act to streamline regulatory arrangements by facilitating an ability to grant a single

	integrated permission for tourism businesses operating across these areas, without reducing environmental protection. The changes will apply to the existing authorising mechanisms for tourism activities such as commercial activity permits, commercial activity agreements, marine park permissions for tourism programs and vessel charter operations, and organised event permits. Other amendments to the Forestry Act and the RAM Act relating to permitting are also included in the Bill, to further improve and align the regulatory framework and to remove redundant provisions. This proposal is a deregulatory measure, reducing the regulatory burden on tourism operators. It does not impose additional costs or regulatory obligations on businesses or the community. No regulatory impact analysis is required under the Queensland Government's Better Regulation Policy.

*Refer to *The Queensland Government Better Regulation Policy* for regulatory proposals not requiring regulatory impact analysis (for example, public sector management, changes to existing criminal laws, taxation).

Other proposals

1.Provisions for the making of codes as an alternative to environmental authorities
What is the nature, size and scope of the problem? What are the objectives of government action?
Proposal – Provide for the making of ERA codes as an alternative to environmental authorities. **Problem –** Under the EP Act, the Queensland Government administers more than 9,300 environmental authorities (EA) which allow industries such as mining and petroleum extraction to undertake environmentally relevant activities (ERA) that have the potential to release contaminants into the environment. A significant proportion of EAs relate to ERAs for which environmental risks and their management requirements are well-understood and accepted. The requirement to apply for and hold an EA for these activities imposes a regulatory burden on business. As knowledge of good environmental practice has evolved, this regulatory burden is now having minimal benefit for the State and community as low risk activities are routinely able to be well-managed to prevent environmental harm. This burden could be avoided if the minimum management requirements could be set outside of the EA framework. Under the current framework, some lower risk activities are covered under ERA standards and thus require a standard application for an EA. However, the legislation does not currently provide a regulatory solution for activities with a risk level that falls between what can be managed by the general environmental duty (GED) under section 319 of the EP Act and an EA. While section 551 of the EP Act enables the Minister to make an advisory code of practice that states ways of achieving compliance with the GED, there is no specific requirement for an operator to comply with the requirements of an advisory code. Current and future operators are impacted through unnecessary regulatory burden and costs which are not proportionate to the environmental risks of the activities they are undertaking or proposing to undertake. These costs include application fees and the costs associated with delaying investment decisions (for new operators) and the burden of providing financial surety (for new and existing operators). There are also registration costs and annual fees for many EAs – the need to retain these will be considered when transitioning an EA to an ERA code. Currently, operators applying for a standard EA may experience a wait of up to 10 business days for the EA to be assessed and approved.

Of the 9,300 EAs currently administered by the department, it is estimated that more than 3,000 (32%) could be suitable for conversion to an ERA code if one was available.

Objective – The objective of the government action is to reduce regulatory burden without a loss in environmental protection. The amendments also aim to provide residents, industry and local government with unequivocal certainty on the requirements for business to manage environmental impacts.

What options were considered?

Regulatory option – Amend the EP Act to establish a new type of code of practice (ERA code) as a new regulatory tool to be used for lower risk ERAs (those where the risks are well-known and the management practices are well established, implemented and understood). This will provide a tool between the GED under section 319 (and associated codes of practice) and the EA framework. Under the proposal, an ERA code would have conditions similar to an EA for compliance purposes but would not require an EA application process and would not involve financial surety to underpin obligations to rehabilitate disturbed areas. If an activity poses a higher rehabilitation risk, it will not be suitable for transition to an ERA code and will remain subject to EA requirements so that financial surety can still be required.

This option would benefit business as operators of activities that are subject to an ERA code would no longer be required to apply for and hold an EA or provide financial surety.

Of the over 9,300 EAs currently administered by the department, it is estimated that more than 3,000 (32%) may be suitable to conversion to an ERA code without a loss in environmental protection. This will provide residents, industry and local government with unequivocal certainty on the requirements for business to manage environmental impacts.

Staging implementation of regulatory option

Given the broad range of activities and risks regulated by the department, a staged approach to implementation will be taken. This will involve phasing the reviews of regulated activities to identify those EAs potentially suitable for conversion to an ERA code. The amendments to the Act will allow these ERA codes to be prescribed in a regulation. This will help manage the resourcing implications for government of the process of converting the EAs to codes.

The priority for implementation would be resource activities which are currently subject to a small-scale mining tenure or are currently required to comply with an ERA standard.

The review of resource industry ERAs to determine those suitable for conversion to an ERA code may be informed by the *'Technical Report: Environmental Risk of Resources Activities'* in addition to consultation. This report, which outlines the environmental risks of resource activities regulated under the EP Act, was prepared by the department in consultation with resource industry, academia and environmental peak body stakeholders, including through workshops and consultation held between April 2019 and October 2022.

Other ERAs that would be prioritised for review include those that impose unnecessary regulatory burden for small business and local government (both as a regulator and a regulated operator) and will consider findings from the Local Government Red Tape Reduction Taskforce.

The development of the ERA codes would include a public consultation process. The final codes will be made by the chief executive under the EP Act but would take effect when they are prescribed by regulation.

Key amendments include:

- establishing a head of power to collect a registration fee from certain operators required to comply with an ERA code;

- establishing an offence for conducting certain activities without having registered;
- establishing an offence for contravening a relevant ERA code;
- inserting provisions to allow operators to be transitioned from EAs to ERA codes; and
- providing that powers of entry for authorised persons include places where an activity is being undertaken subject to an ERA code as per existing arrangements for EAs.

Alternative options – The non-regulatory option of using advisory codes of practice under section 319 of the EP Act ('GED codes') rather than establishing new ERA codes has been considered. Although this has the advantage of not requiring a legislative amendment, there would not be a mechanism to apply the GED codes to existing operators, and the codes would not have enforceable conditions. This would not be a satisfactory outcome as it would reduce associated environmental protections.

Maintaining the status quo would mean that the regulatory framework would continue to be unnecessarily burdensome for operators undertaking activities that have a low environmental risk. This option is more costly for industry, particularly future applicants who need to apply and wait for an approval to be issued. It is also more costly for government to process applications, collect and hold financial surety (e.g. financial provisioning or financial assurance), issue EAs, and ongoing administration such as for amendments and variations etc. of EAs.

What are the impacts?

With the exception of activities currently subject to a small-scale mining tenure (addressed separately below), no changes to the level of regulation of activities is proposed as part of this Bill. This is because the proposed amendment establishes a head of power to make ERA codes but does not make the ERA codes themselves. The impact is to create an opportunity to reduce regulatory burden and realise administrative savings for low risk environmental activities in the future, as part of a future review.

Small scale mining activities

A process will be established for transitioning activities that are currently subject to a small scale mining tenure ('small scale mining activities') across to ERA codes as part of the Bill. The impact of this change on existing operators will be minimal, as it is intended that the codes will carry over existing prescribed conditions that currently apply to these activities under regulation, with any changes made in consultation with industry. The ERA codes will be designed with the intent of maintaining the status quo for these existing operations, allowing operators to continue business as usual once transitioned. The exception to this is that financial surety will no longer be required for these activities when they are transitioned to ERA codes. Any financial surety that has previously been provided is proposed to be refunded, noting administration of refunds will be undertaken progressively over a period of months.

Future codes

Under the proposed provisions, the development of the ERA codes will include a public consultation process similar to the process for the making of ERA standards under Chapter 5A part 1 of the EP Act, including impact assessment, public notification and consideration of submissions. The final codes will be prescribed by regulation to ensure there is an opportunity for scrutiny by the Parliament and disallowance.

The change will reduce regulatory burden for new operators, who will no longer need to apply for and wait for an EA to be issued, and will not be subject to financial surety requirements.

Overall, compliance costs are equivalent to regulation via an EA and there is expected to be reduced ongoing costs for post approval dealings with EAs replaced by ERA codes.

Who was consulted?

A consultation paper, '*Realising efficiencies and streamlining in the Environmental Protection Act 1994 and other portfolio amendments*' was released on 10 June 2025 via publication on the DETSI website, with submissions invited until 14 July 2025. Online verbal briefings were provided for external stakeholders in addition to one-on-one meetings on request. Sixty-one submissions were received. Meetings to discuss submissions were also held with stakeholders, including industry, conservation/environmental and legal groups, as well as local government. Further consultation was also undertaken with submitters, other key stakeholders and First Nations representative bodies on a draft exposure version of the Bill from 24 September 2025 until 17 October 2025. This included online verbal briefings on the results of consultation and discussions about the Bill provisions. Several submissions supported the proposal, agreeing that replacing EA requirements with mandatory codes would target 'red tape' and reduce compliance and operational costs for both industry and government.

Most submitters who partially supported the proposal did so in principle but cautioned that the categorisation of an ERA as 'low risk' must be done with care to avoid uncertainty and ensure no conflict with existing EA conditions or tenure approval processes.

Submissions from environmental groups, as well as some landholders, resources, waste and industry stakeholders posed that ERA codes could unduly limit departmental oversight of ERAs resulting in poorer environmental outcomes, and create a lack of flexibility to account for site-specific conditions, and inconsistency in the regulatory approach for assessment.

Local government groups sought further details on the financial and operational support being provided to councils under the framework as well as transitional arrangements for existing authorities to ERA codes.

A number of stakeholders, including local government, sought additional information about the process for establishing ERA codes and which activities would be affected. Key feedback included:

- all content should be subject to consultation with industry and the community, to ensure an opportunity to contribute to shaping the ERA codes. Under the proposed provisions, the development of the ERA codes will include a public consultation process similar to the process for the making of ERA standards under chapter 5A part 1 of the EP Act, including impact assessment, public notification and consideration of submissions;
- the final codes should be given effect by being prescribed by regulation, and therefore are also subject to regulatory impact analysis, Executive Council approval and scrutiny by Parliament;
- the codes should set clear expectations about acceptable standards of environmental performance and, in addition, the department publish guidance material and information about how to meet those standards;
- for operators who choose not to comply with their obligations and commit an offence against the legislation, the department should be consistent in taking prompt, strong enforcement action in line with its compliance and enforcement strategy and guidelines;
- the department's range of compliance and enforcement tools should be available to stop or prevent unlawful environmental harm, which may include requiring rehabilitation of any degraded environment; and
- suggestions regarding workability of the provisions, which has informed finalisation of the Bill provisions, including retaining activities subject to codes as ERAs and ensuring operators have the flexibility to apply for or remain subject to an EA where they cannot meet the prescribed conditions under a code.

What is the recommended option and why?

Amending the EP Act to establish ERA codes as a new regulatory tool to be used for low risk activities (the 'legislative solution') is the preferred option. This is because the introduction of ERA codes achieves the objective of government action and addresses the issues described. Specifically, this option:

- provides a more proportionate regulatory mechanism for classes of activities where environmental risk management requirements are well-known and understood and there is limited benefit to an application and assessment process, and to post-approval dealings (amalgamations/de-amalgamations, amendments, estimated rehabilitation cost or financial assurance and surrender);
- reduces regulatory burden and costs for new operators, as well as potential delays to investment decisions, by removing the need to apply and receive an approval for an EA, without impacting environmental outcomes;
- reduces regulatory burden and costs for new and existing operators, by removing the requirement to provide financial surety for low risk activities undertaken under ERA codes;
- provides a clear standard of environmental performance expected by lower risk ERAs to minimise the risk of operators finding themselves non-compliant with GED as the department would maintain auditing and compliance obligations for these activities; and
- provides the ability to reduce the number of ERAs regulated through an EA under the EP Act while retaining environmental performance standards through enforceable conditions outlined in the ERA codes. Failure to provide this type of safety net (i.e. maintaining regulation through an ERA code) when removing a requirement to have an EA could lead to greater risks of environmental harm and well performing corporate entities potentially being financially undercut by poor environmental performers.

Maintaining the status quo is not preferred as, under this scenario, the opportunity to reduce regulatory burden is not realised. This option is more costly for industry due to registration fees, annual fees, and requirements for financial surety. This option is also more resource intensive for the administering authority, to process applications, collect and hold financial surety, issue EAs, and manage post approval dealings.

The non-regulatory option is not viable as, under this scenario, there would not be a mechanism to ensure sound environmental management practices.

2.Consistent environmental risk basis for regulating environmentally relevant activities

What is the nature, size and scope of the problem? What are the objectives of government action?

Proposal – Provide a consistent environmental risk basis for regulating environmentally relevant activities (ERAs).

Problem – The EP Act currently provides for and defines ERAs in different ways. For example, resource activities like mining are listed broadly in the EP Act and all require an EA, while other ERAs —such as food processing—are prescribed by regulation if they have the potential to release harmful contaminants or affect marine environmental values. In certain cases, this inconsistent approach has resulted in regulatory requirements being disproportionate to the risk of environmental harm. This is particularly the case for activities where sound methods of environmental management practice have emerged and are now well known.

It is proposed that all ERAs, including resource activities and agricultural ERAs, be defined and regulated under a consistent, risk-based approach. This will ensure a more nuanced approach with regulatory requirements based on the effort and oversight needed to avoid or manage environmental harm effectively. Amending the EP Act in this way will allow regulators to respond more easily to updated information on effective management practices, and better tailor regulatory requirements to minimise unnecessary burden for industry and the community.

Objective – The objective of the government action is to ensure the EP Act remains a fit for purpose regulatory framework by:

- triggering a review of the activities which are regulated as an ERA and adjusting existing arrangements to ensure regulatory oversight is proportionate to the risk of environmental harm and minimises unnecessary regulatory burden; and
- ensuring the regulatory framework can respond to contemporary and emerging environmental practices that affectively address risks of harm for the Queensland community.

What options were considered?

Regulatory option – Amend the EP Act so that all ERAs are prescribed consistently in the EP Regulation, rather than via the current mix of activities in the EP Act and subordinate legislation. An activity may be prescribed as an ERA if the Minister is satisfied that it will or may:

- adversely affect a *significant environmental value* (see item 3 below);
- adversely impact an environmental value of the marine environment; or
- release a contaminant into the environment when the activity is carried out and that contaminant will or may cause environmental harm.

Initially, under the amendments, current ERAs would continue to be subject to the same regulatory oversight as they are now, but with the relevant provisions being transferred across from the EP Act into the EP Regulation. This will establish the means for taking a more nuanced, risk-based approach to regulatory oversight of ERAs going forward particularly for resource activities. This approach will provide greater transparency and will ensure the regulatory framework can respond to contemporary and emerging environmental risks for the Queensland community.

Alternative options – A non-regulatory option cannot achieve the objective of government action, as activities would continue to be regulated differently through a combination or primary and subordinate legislation. Maintaining the status quo was considered, however, this would mean that the method of regulation remains based on a broad class of activities (e.g. resource activities) rather than a risk-based approach and would not address the current inconsistent approach that has resulted in regulatory requirements being disproportionate to the risk of environmental harm.

What are the impacts?

While this proposal will amend the legislative framework, any changes to the prescription of ERAs, including the addition or removal of specific ERAs, will be subject to a separate process. At commencement, all existing ERAs are proposed to be included in the EP Regulation and continue to be regulated as they currently are, with a like-for-like transfer of ERAs from the EP Act into the EP Regulation. As such, the amendments made by this Bill are not expected to have any regulatory impacts upon industry or the community. Following this process, any subsequent changes to ERAs would be subject to further consultation, regulatory impact analysis, Executive Council approval and disallowance by Parliament.

Compliance costs will be zero, as the amendments are not expected to have any regulatory impacts.

Who was consulted?
Consultation for this proposal was as per the summary provided for the first proposal. Submissions regarding this proposal revealed broad support for ERAs to be consistently prescribed in the EP Regulation, rather than the current mix of primary and subordinate legislative regulation for different classes of activities. Industry and resources sector stakeholders noted that further clarity is desirable to avoid unintended regulatory gaps or increased uncertainty and sought further information and assurances regarding the existing list of ERAs and that no new ERAs are proposed at this time. Environmental, local government and waste groups emphasised the need for ongoing dialogue and consultation during development and implementation of the proposal. Feedback on the exposure draft was consistent with earlier submissions.
What is the recommended option and why?
The regulatory option is preferred as it is the only option that fully addresses the identified issues and ensures the EP Act remains an effective and fit-for-purpose regulatory framework. Amending the Act to prescribe all ERAs through a consistent, risk-based approach will improve transparency and ensure regulatory oversight is proportionate to the potential harm to the environment and community. When combined with the proposed introduction of ERA codes (see item 1 above), this approach will support a gradual reduction in the number of ERAs over time—ensuring only those activities that truly require assessment and approval through an EA are regulated through an EA. As mentioned above, any future changes to the list of prescribed ERAs, including additions or removals, would follow a separate process involving consultation and regulatory impact analysis.

3.State's priorities for environmental protection
What is the nature, size and scope of the problem? What are the objectives of government action?
Proposal – Clearly identify the State's priorities for environmental protection in the EP Act. **Problem** – The EP Act includes a definition of environment which is necessarily broad, however it does not provide direction on the aspects of the environment that are priorities for protection by the Queensland Government. This can result in the information required for applications and assessment processes not focusing on the key environmental concerns. Currently, the EP Act seeks to call out particular values by referencing areas of high conservation, defining category A and category B environmentally sensitive areas in the EP Regulation, or by cross-referencing the Matters of State Environmental Significance (MSES) in the *Environmental Offsets Act 2014* (Environmental Offsets Act). It also prescribes particular environmental values in Environmental Protection Policies. The licensing framework (the requirement to obtain an EA) under the Act is currently based on activity-type or the release of contaminants rather than an activity's potential impact on particular values or aspects of the environment that are priorities for the State government.

Objective – The objective of the government action is to:

- provide clarity to stakeholders, applicants and those administering the legislation on the aspects of the environment that are priorities for the State government in implementation of the legislation; and
- enable the threshold for prescribing activities as ERAs to be linked to an adverse impact on a 'significant environmental value, to ensure all activities warranting approvals are captured and to provide a consistent environmental risk basis for considering the activities that are regulated under the EP Act.

What options were considered?

Regulatory option – It is proposed to define a subset of environmental values in the EP Act as significant environmental values and make it clear that the Act is to be administered having regard to these priorities.

The specific values and areas that are priorities would be identified and consolidated in one schedule in subordinate legislation, providing a streamlined and efficient framework for setting regulatory oversight based on risk. In preparing the list of significant environmental values, the existing MSES in the Environmental Offsets Act and environmental values prescribed in Environmental Protection Policies under the EP Act will be considered and refined to determine the relevant inclusions. Category A and Category B environmentally sensitive areas currently used for some activities will also be considered to avoid undesirable gaps and inconsistency.

The specific proposal is:

- amend the EP Act to include a clear set of significant environmental values, to provide clarity on the priorities for protection under the EP Act, noting that the proposed matters are proposed to be largely consistent with the MSES defined in Queensland's land-use Planning framework, with some variations to ensure the list is appropriate for the purposes of the EP Act (e.g. to remove reference to statutory mapping where possible and focus instead on the environmental attributes of an area); and
- amend section 6A(1) of the EP Act to provide that the Act is to be administered having regard to significant environmental values.

Alternative options – The option of cross-referencing MSES in the Environmental Offsets Act (rather than creating a separate list in the EP Act) was considered, however this would not capture other environmental values that are of significance under the EP Act framework, such as those relating to water quality.

Maintaining the current legislative framework without specifying significant environmental values would not achieve the objectives of government action. In particular, it would impact on the ability to provide a consistent risk basis for considering the activities that are regulated under the EP Act and to ensure all activities warranting approvals are captured (i.e. where the key environmental pressures may not be linked to the release of contaminants, however there is another impact on sensitive ecosystems that warrants regulatory oversight via an EA).

What are the impacts?

Significant environmental values will be a subset of environmental values and will be prescribed by Regulation (e.g. in existing Environmental Protection Policies and in the EP Regulation). Significant environmental values will therefore be relevant to consider in the context of any decision or provision of the Act that refers to or links back to 'environmental values'.

Impacts on all environmental values, including significant environmental values, must be identified by applicants and considered by the administering authority when assessing and conditioning applications, as well as other relevant considerations under the EP Act.
Prescribing the environmental values that are significant environmental values will neither expand nor reduce the matters for consideration, so should not have any material regulatory impact on specific

decisions. Rather, listing significant environmental values in the Act will clarify the matters that are of highest importance to the State government and are intended to guide the general administration of the legislation.

Overall, compliance costs are likely to be negligible, as the amendments should not have any material regulatory impact on specific decisions.

Who was consulted?

Consultation for this proposal was as per the summary provided for the first proposal, outlined on page 10 above.

A theme of submissions and discussions included the need for increased clarity on the role of significant environmental values as some stakeholders assumed a greater effect than what the draft Bill provides. Several submissions noted the proposal needed further refinement and sought further guidance from the department.

Submissions noted the need for significant environmental values to:

- align with existing environmental frameworks;
- avoid duplication with existing legislation;
- reflect government priorities; and
- reduce complexity, cost and administrative burdens.

Environmental and waste groups supported the establishment of a clear list of significant environmental values to provide greater certainty. Some landholder groups agreed that significant environmental values could be advantageous if all matters currently listed as either MSES or Environmentally Sensitive Areas (ESAs) are automatically included in this category.

Both agricultural and aquaculture groups were comfortable with the proposed identification of significant environmental values, provided they incorporate priority agricultural areas and address emerging issues, such as subsidence. Industry and resource groups had concerns that creating a new list would add duplication and complexity.

Feedback on the workability of the provisions through submissions and discussions has informed finalisation of the amendments. In response to stakeholder feedback, changes were made for clarification and consistency in new terminology. The Department will also undertake further work with key stakeholders to address concerns around the potential for duplication and complexity, including through guidance material, to ensure significant environmental values achieve their intended purpose of supporting effective environmental protection while providing certainty for investment and project delivery.

What is the recommended option and why?

The regulatory option is preferred as it is the only option that addresses the issues described and achieves the objective of government action.

Specifically, the proposal will:

- consolidate the list of priority environmental matters, rather than having these priorities identified through a number of different instruments and references as is currently the case;
- provide a sound basis for determining appropriate regulatory oversight for ERAs, to ensure all activities warranting approvals are captured (i.e. where the key environmental pressures may not be linked to the release of contaminants, however there is another impact on sensitive ecosystems that warrants assessment and approval via an EA), and to provide opportunities for deregulation in the future; and

- increase outcome certainty for industry and government by providing transparency and clarity to stakeholders, applicants and EP Act administrators on the environmental values that are priorities for protection by the State government in administration of the legislation.

The final list of significant environmental values will be refined through further stakeholder consultation, and will be prescribed via a regulation amendment.

4.Streamlining the Progressive Rehabilitation and Closure Plan framework

What is the nature, size and scope of the problem? What are the objectives of government action?

Proposal – Streamline and enhance the PRCP framework.

Problem – The PRCP framework provides for the progressive rehabilitation of land disturbed by mining throughout the life of the mine. The PRCP framework was introduced into the EP Act in 2018 and provided for the transition of mine sites with existing EAs into the PRCP framework. Through implementation of the transition, legislative issues have become apparent regarding unforeseen regulatory gaps, uncertainty, and unnecessary burden on both industry and government. Various streamlining and clarification amendments are proposed to address these issues.

Assist EA holders transitioning into the PRCP framework under the EP Act

Section 431A of the EP Act creates an offence requiring that the holder of an EA, issued for a site-specific application for mining activities relating to a mining lease, not carry out a mining activity under the EA unless there is an approved PRCP Schedule for the activity.

Provisions in the *Mineral Resources Act 1989* mean that rehabilitation and environmental management works fall within the definition of mining activity, such that conducting beneficial rehabilitation or environmental management works without an approved PRCP Schedule may still constitute an offence under section 431A. To ensure that the section 431A offence does not inadvertently penalise EA holders for undertaking beneficial rehabilitation and environmental management actions in the absence of an approved PRCP schedule, it is proposed to amend the scope and application of the section 431A offence to allow for such positive environmental outcomes. It is also proposed that AA holders may request the administering authority to assess a PRCP application more than once, and as such the offence under section 431A will only apply where the holder fails to provide the required application documents.

Clarify when offence provisions apply in circumstances where an application has lapsed

Transitional provisions in the EP Act that are intended to facilitate the transitions of mining EA holders into the PRCP framework do not take into account situations where an EA holder's PRCP application has lapsed under sections 129 (application not properly made) or 147 (no response to information request) of the EP Act. In these circumstances, an EA holder will not have obtained an approved PRCP Schedule, but will also not be subject to the section 431A offence provision, creating a situation of regulatory uncertainty.

To ensure the application of the section 431A offence provision is focussed on transition of the EA holder into the PRCP framework, and to allow sufficient time following a lapsed PRCP application for further actions to be conducted, two amendments are proposed. One is to simplify the section 431A offence to apply when an operator does not have a PRCP Schedule, irrespective of mining activity occurring. In conjunction, section 802 of the EP Act is proposed to be amended to provide a period of 60 business days for an EA holder to re-submit a PRCP application prior to the section 431A offence applying. This will provide a clearer pathway for EA holders to move back into compliance with the PRCP framework.

Allow for audits of PRCP schedules to be determined by the administering authority

Currently, PRCP Schedule holders are required to commission a rehabilitation audit every three years, with the audit report due four months after the end of each audit period. While this interval was originally designed to ensure regular oversight of rehabilitation progress, it has proven too short to capture meaningful environmental change and too prescriptive. In many cases, rehabilitation milestones are long-term and incremental, making it difficult for audits to be conducted at three-year intervals to provide substantive insights into actual rehabilitation outcomes.

Audits against PRCP schedules require significant effort to prepare and submit, including engagement of qualified auditors, compilation of technical data, and formal declarations. If the prescriptive timing of audits provides limited value, this imposes unreasonable administrative and financial burden on both industry and government, particularly where no milestones are due within the audit period. The proposal aims to address this issue by allowing the administering authority to align audit intervals with the pace of rehabilitation activities, thereby improving the efficiency and relevance of audit findings while maintaining appropriate regulatory oversight. The proposal will allow the administering authority to determine when an audit is best required.

Allow for a new notice to submit a PRCP application following an EA transfer

When an EA is transferred to a new holder without an approved PRCP Schedule, the new holder assumes the obligation to prepare a PRCP under section 754 of the EP Act. However, the statutory deadline for submission remains fixed, regardless of when the transfer occurs. This can result in a new holder being immediately exposed to potential offences under section 431A, following a transfer process, if the previous holder was non-compliant or allowed the application to lapse. This creates significant legal and financial risk for purchasers, complicating asset transfers and discouraging investment. As a result, parties may be reluctant to acquire EAs that are mid-transition or non-compliant due to the liabilities associated with missed application deadlines. The proposal seeks to mitigate these risks by clarifying transitional rights, allowing for agreement with a new EA holder on a new timeframe for a PRCP application and ensuring that the section 431A offence does not apply for 60 business days after a transfer.

Objective - The objective of the government action is to support EA holders transition to the PRCP framework and provide a more streamlined approach to the assessment of the PRC plans. Overall, allowing industry to operate and provide application materials with greater clarity, continuity and fairness through addressing unintended consequences and key implementation challenges. Specifically, reducing unnecessary regulatory burden, streamlining the application process, rectifying implementation issues, reducing administrative requirements and reducing ambiguity within the PRCP framework. The proposal aims to strike a balance between regulatory compliance and environmental stewardship by ensuring that the regulatory framework promotes responsible mining practices and facilitates positive environmental outcomes.

What options were considered?

Regulatory option – Amend the EP Act to:

- provide for the section 431A offence to simply apply when an EA holder does not have an approved PRCP Schedule, removing the reference to a mining activity;
- include in section 359 grounds for issuing an environmental enforcement order (EEO) in relation to a section 431A offence;
- allow for a rehabilitation direction notice to be issued where an EA holder is required to transition into the PRCP framework and a PRCP Schedule has not been approved;
- amend section 802 to ensure the section 431A offence is dis-applied for a period of 60 business days after a PRCP application has lapsed, to allow the EA holder to re-apply;
- remove the requirement for an audit to be conducted within a certain time period and allow for the chief executive to direct the holder of a PRCP Schedule to commission an audit;

- allow for the administering authority to agree on a new timeframe for a PRCP application to be made, following the transfer of an EA, enabling the new EA holder to seek assessment under section 802 and ending the previous timeframe requirements; and
- ensure the section 431A offence does not apply until 60 business days after an EA is transferred.

Alternative options – non-regulatory

Consideration was given to the non-regulatory option of developing a guideline or operational policy that outlines how the administering authority will enforce the section 431A offence, including by identifying that rehabilitation and environmental management activities will not be pursued. However, this does not address the unintended compliance requirements within the current legislative framework, or the regulatory gaps that currently exist in rehabilitation obligations and compliance.

A review of the current PRCP statutory guideline will be conducted to ensure it provides the necessary guidance for both industry and government stakeholders. While the review of the guideline will help to ensure consistency and certainty across decision-making processes, a regulatory solution is necessary to address all the issues described and achieve the objectives of the government action.

No change

Maintaining the status quo was considered, however this would not address the ongoing barriers for existing EA holders attempting to continue their activities within or transition into the PRCP framework or allow for unambiguous and appropriate regulatory compliance measures for such transitions. The unnecessary regulatory burden associated with untimely audit requirements would also remain.

What are the impacts?

For the amendments to section 431A, and with the current transitional processes underway for the PRCP framework, it is possible that some EA holders could automatically fall within the scope of the amended offence provision. However, as the EA holders have already been engaged with the transition process into the PRCP framework, the administering authority will have extensive opportunity to continue communicating with them, and after the offence provision is amended there will be a 60 business day period for an application to be submitted before the offence applies. This amendment complements the proposed amendment to allow a lapsed application a pathway for resubmission before being in offence. Currently, multiple EA holders are affected by lapsed applications and remain in a prolonged state of regulatory uncertainty which this resolves.

The current requirement for PRCP Schedule holders to commission independent rehabilitation audits every three years is inefficient, as the fixed interval often fails to align with the pace of rehabilitation activities. To address this, the proposed amendment will empower the administering authority to determine the timing of audits based on site-specific progress. This approach will ensure audits occur at meaningful points throughout the life of the mine, reducing unnecessary financial burden on EA holders. However, it will place greater responsibility on the administering authority to monitor and manage audit timing effectively. While the authority may still require audits following a three-year period, this will only occur when deemed necessary. Importantly, such decisions will be classified as original decisions, providing EA holders with the right to appeal and ensuring transparency and procedural fairness. Another key amendment will provide the option to grant additional time for providing a PRCP to the administering authority for assessment only in the circumstances when an EA is transferred to a new holder. The new EA holder will be able to use this additional time to prepare and submit a PRCP application and reapply under section 802 provision. This change will reduce financial and regulatory burdens on the incoming EA holder.

Overall, these proposed amendments, in conjunction with the review of the statutory guideline, are considered the most viable solutions for addressing the identified issues currently being faced by EA holders transitioning into the PRCP framework. These changes have been carefully evaluated, and they are not

expected to have significant adverse effects on industry, government, or communities. On the contrary, they are anticipated to deliver positive outcomes. By addressing regulatory gaps, reducing administrative and financial burden, the amendments will streamline the application and assessment process enhancing certainty for proponents, reducing delays, and supporting timely rehabilitation outcomes. Importantly, these reforms will maintain the integrity and intent of the PRCP framework, ensuring that environmental standards are upheld while enabling a more practical and responsive regulatory system.

Overall, compliance costs are likely to be negligible, as the minimal costs of implementation will be offset by the reduced ongoing costs of regulation.

Who was consulted?

Consultation for this proposal was as per the summary provided for the first proposal outlined above.

Submissions regarding this proposal revealed general support for this proposal, including support for the clarification of the scope of the PRCP framework. Resource groups noted that the amendments to assist in the transition to the PRCP framework should not limit the development of legacy mine sites, should retain a clearly defined trigger for environmental enforcement orders, and should be carefully implemented to preserve procedural fairness. They supported the new timeframe to submit a PRCP application and the grace period following an EA transfer.

Environmental and landholder groups questioned the new timeframe or grace period, noting that a sale or transfer of an EA should not be used as a mechanism to waive or delay rehabilitation compliance requirements.

Resource groups were largely supportive of the proposal to allow for audits to be at a directed time, whereas environmental groups raised some concern. Some submissions suggested a minimum audit schedule, to provide certainty, procedural fairness and equal treatment.

In response to feedback, changes were made to remove potential uncertainty in the application of the new provision allowing the administering authority the ability to issue a direction notice.

What is the recommended option and why?

The regulatory option is recommended as this approach will generate the greatest net benefit to the community by ensuring that:

- procedural fairness is provided for valid EA holders who are actively progressing through the PRCP transitional arrangements; and
- rehabilitation obligations are enforceable during the transition to support positive environmental outcomes while maintaining regulatory clarity and fairness for EA holders.

Both regulatory and non-regulatory options are proposed, as the combination of these options will reduce regulatory and administrative burden, clarify legislative requirements, reduce duplication and streamline the assessment process, while maintaining the intent of the PRCP framework.

5. Incentivise compliance through court powers to order forfeiture of property

What is the nature, size and scope of the problem? What are the objectives of government action?

Proposal – Incentivise compliance by allowing a court to order the forfeiture of property which may be used in the ongoing conduct of an offence under the EP Act.

Problem – Following conviction of an offence under the EP Act, a court is authorised to order the forfeiture of the property of the convicted person which was seized as evidence of offence. The seized evidence will not necessarily include the property which was used by the offender to commit the offence, so that the court order for the forfeiture of the property will not always be effective in preventing repeat offending, particularly where it is profitable for the offender.

Repeat offending of similar offences under the EP Act. For example, unlawful dumping and unlicenced transportation of waste where the offender's vehicle is instrumental in the ability to continue to offend but as it is not evidence of the offence, it has not been seized and therefore cannot be forfeited by the court. There have been instances in Queensland where large, illegal stockpiles have ignited and released contaminants into the air and waterways causing adverse effects to the quality of the environment that also significantly impact public health and safety. Similar situations of repeat offending have arisen where earth moving and screening equipment has been used to undertake unlicenced ERAs, and trucks are being used to transport regulated waste illegally, with similar adverse impacts upon the environment and to public health and safety.

Objective – The objective of this government action is to sufficiently incentivise compliance with the EP Act by giving authority to the court, upon conviction of an offender, to also order the forfeiture of the property which is used in the commission of an offence under the EP Act, to better prevent repeat offending and better safeguard the environment and public health and safety.

What options were considered?

Regulatory option – EP Act amendment introducing authority for a court to order, upon conviction of a person for an offence under the EP Act, the forfeiture of anything (including a vehicle or machinery) used by the person to commit the offence, or anything else the subject of the offence.

Alternative options – Feasible non-regulatory options were unable to be identified as the problem relates to persons who repeatedly undertake unlawful activities regardless of court convictions. Maintaining the status quo was considered, however this would not address the risks to the environment and public health that is posed by lucrative repeat offending.

What are the impacts?

The proposed amendment does not impose any additional obligations on businesses or the community, rather it is directed at incentivising compliance in those persons convicted of an EP Act offence where a court is satisfied that forfeiture of their property is necessary to prevent further offences being committed. A forfeiture order will apply where previous convictions and penalties have failed to prevent continued offending. To ensure the proportionality of any forfeiture penalty, it will remain open to the court to consider a range of factors including risks associated with the offending and whether forfeiture of property would have any adverse or unfair impact on the offender.

Safeguards will be in place to ensure that a court can consider whether ordering the forfeiture of property would have undue impacts on a third party.

Persons undertaking activities lawfully will not be impacted.

Positive impacts for the protection of human health and the environment are anticipated, noting illegal activity can result in serious and irreversible harm.

Overall, compliance costs to facilitate forfeitures ordered are likely to be negligible, given the anticipated reduced ongoing costs of compliance enforcement.

Who was consulted?

Consultation for this proposal was as per the summary provided for the first proposal as outlined above.

Submissions regarding this proposal revealed mixed views. Environmental organisations largely supported the proposal noting the proposal would assist in environmental protection. Local government stakeholders expressed support for the proposal but queried the potential increase in regulatory burden without a corresponding ability to recover costs.

Resource sector feedback was varied. One peak body supported the proposal in principle, while others opposed the proposal for the extended legal exposure for historical conduct and procedural uncertainty. Existing court powers to order forfeiture were considered sufficient.

In response to feedback, additional safeguards were added to the proposal, including requirements that the court is required to consider in deciding whether to make a forfeiture order. This includes the court considering any hardship caused to a person, the ordinary use of the thing to be forfeited and the seriousness of the offence.

What is the recommended option and why?

The regulatory option is preferred as it generates the greatest net benefit to the community. It supports the prevention of the repeated commission of offences under the EP Act which will reduce the risk of situations that result in environmental harm and threaten human health and safety. Any person who is impacted will have the opportunity to be heard in a court of law.

6.Sufficiency for court summary proceeding commencement timeframes

What is the nature, size and scope of the problem? What are the objectives of government action?

Proposal – Ensure adequate time is available to bring summary proceedings.

Problem – Prosecutions for offences against the EP Act and the WRR Act are being prevented by the operational effect of current legislative thresholds and limitations. This has resulted in the defeat of measures in the EP Act which seek to protect Queensland's environment through requiring persons who cause environmental harm to pay costs and penalties for the harm. While court proceedings are the final compliance measure undertaken by the regulator (following the exhaustion of other available non-litigious measures under the legislation e.g. issuing an environmental enforcement order), the ability to prosecute offences is an essential element of compliance and should not be hindered by red tape.

The election available to the prosecution in section 465 of the EP Act means that the majority of indictable offences under the EP Act are brought summarily. This has had the practical yet unintended effect that proceedings for indictable offences brought summarily are subject to the limited timeframes for the commencement of summary offences in section 497 of the EP Act, that is:

- one year from the commission of the offence; or
- one year after the offence comes to the complainant's knowledge, but within two years after the commission of the offence.

The current limitations on timeframes to bring summary proceedings under both section 497 of the EP Act and equivalent sections of the WRR Act have prevented prosecutions. This is because the nature of the offences themselves can require more time to ascertain and gather the appropriate evidence to commence a proceeding as a result of:

- the offence itself not being immediately apparent because of the nature of the environment where the offence occurred, for example contamination of underground water; and/or
- the complexity of the investigation of the offence, including the necessity for numerous witnesses and testing samples, extensive documentation, large volumes of evidentiary material and scientific data, specialised and technical expert opinions and multiple expert agreements, and briefing experts and engaging external counsel.

This is particularly evident with the more serious offences under the EP Act, which pose greater risks for more significant negative impacts on the environment and human health and safety, including:

- contravening the GED in relation to an activity which causes or is likely to cause serious or material environmental harm (section 319(2));
- contravening the duty to restore the environment in relation to harm that is serious or material environmental harm (section 319C(3));
- failing to comply with the conditions of a temporary emissions licence (section 357I);
- wilfully or otherwise contravening an environmental enforcement order without reasonable excuse (section 369A(1) or (2));
- carrying out an ERA without an EA for the activity (section 426(1));
- contravening a condition of an EA (section 430(3));
- the EA holder failing to ensure that another person acting under the authority does not contravene a condition of the EA (section 431(2));
- unlawfully causing serious environmental harm (section 437(2));
- unlawfully causing material environmental harm (section 438(2));
- wilfully or otherwise unlawfully causing environmental nuisance (section 440(1) or (2)); and
- causing or allowing a contaminant to be placed in a position where it could cause environmental nuisance (section 443A).

In addition, the ability to prosecute offences is being defeated by significant ambiguity and subjectivity in the application and interpretation of the threshold requirement of the offence coming to the 'complainant's knowledge'. This secondary threshold also significantly increases the regulatory burden of the prosecution, with little to no practical benefit for the litigation process.

Objective – The objective of the government action is to amend the EP Act and the WRR Act to:

- provide sufficient time to effectively bring proceedings for offences under the legislation, while protecting individuals from the threat of prosecution not being sufficiently timely;
- reduce ambiguity and regulatory burden by removing ineffective legislative thresholds;
- increase clarity and streamline the court process within and across the regulatory framework; and
- better facilitate environmental protection measures by appropriately addressing the unique regulatory nature of such measures.

What options were considered?

Regulatory option – Amend section 497 of the EP Act and section 267 of the WRR Act to:

- remove the time limitation that proceedings for summary offences must start within one year after the commission of the offence; and
- retain the time limitation that proceedings for summary offences must start within two years after the commission of the offence but remove the threshold requirement of the offence coming to the 'complainant's knowledge'.

Amend the EP Act to extend the time limitation for starting proceedings commenced summarily and for the following summary offences under sections 319(2), 319C(3), 357I, 369A(1) or (2), 426(1), 430(3), 431(2), 437(2), 438(2), 440(1) or (2), 443A to within 3 years after the commission of the offence.

Alternative options – Feasible non-regulatory options were unable to be identified as the problem relates to the currently legislated process for prosecuting offences under the EP Act and the WRR Act. Maintaining the status quo was considered, however this would not address the risks to the environment and public health posed by the failure to properly prosecute offences against the EP Act and the WRR Act and allow offenders to continue to avoid being held accountable for their offences.

What are the impacts?

This proposal has the potential to impact those the administering authority believes may have committed an offence against the EP Act or the WRR Act. The removal of the time limitation that proceedings for summary offences must start within one year after the commission of the offence, means that some people may be subject to the investigative and non-litigious enforcement actions under the EP Act for a longer period of time, up to two years after the commission of the offence or up to three years for more serious offences. While providing greater time to otherwise remedy and resolve matters, the extended time to bring a proceeding will require the accused to mount a defence after more time has elapsed since the alleged commission of the offence. Any impact this will have on the accused will however be mitigated by the accused's knowledge of the matter from the investigative and non-litigious enforcement actions already undertaken with the accused by the administering authority. The accused will retain all rights governing the proceedings, including reasonable grounds to initiate proceedings, rules of evidence and appeal rights.

As offences against the EP Act and the WRR Act can cause significant harm to the environment and human health, holding people to account for this offending is expected to have positive social and environmental impacts.

Removing ambiguity and providing sufficient timeframes for commencing prosecutions will create positive regulatory impacts by increasing the effectiveness and appropriateness of the regulatory framework.

Overall, compliance costs are likely to be negligible, as those affected are those who are non-compliant.

Who was consulted?

Consultation for this proposal was as per the summary provided for the first proposal as outlined above.

Submissions regarding this proposal revealed mixed views. Local government supported the proposal noting it would provide greater flexibility in investigating non-compliance but emphasised the need for support in managing more complex cases. Environmental organisations supported the proposal, with a submission from the waste sector noting its support and the alignment of the proposal more closely with timeframes in other Australian states.

Conversely, resource industry peak bodies opposed the proposal citing risks of disproportionate negotiation practices, legal uncertainty during operational transitions, and procedural fairness. One submission noted concerns that significantly extending the timeframe for bringing summary proceedings could negatively affect evidence preservation, witness reliability, the efficient administration of justice, and public accountability.

In response to this feedback, the proposal was refined to limit the proposal to three years (instead of five) for specified offences and two years (instead of five years) for all other summary proceedings. Feedback on the refined proposal showed increased support in light of the refinements.

What is the recommended option and why?

The regulatory option is recommended, as this is the only option which allows for a fair and robust process for proceedings for offences against the EP Act and the WRR Act, providing the greatest net benefit to the community.

7.Streamlining and enhancing Chapter 3 of the *Water Act 2000*

What is the nature, size and scope of the problem? What are the objectives of government action?

Proposal – Streamline and enhance regulatory provisions in Chapter 3 of the Water Act

Problem – Extraction of coal seam gas can be associated with decreased accessibility of groundwater and water aquifers, with the potential to adversely impact groundwater dependent ecosystems. In 2011, the Surat Basin was declared a cumulative management area (CMA) under Chapter 3 of the Water Act due to the high concentration of petroleum and gas activities occurring in this area. The independent OGIA is responsible for developing the underground water impact report (UWIR) for the Surat CMA. This includes assigning obligations to resource tenure holders such as bore assessments, make good agreements, and groundwater monitoring. Outside of the Surat CMA, individual resource tenure holders are required to develop their own UWIR. All UWIRs must be approved and published by the department and have a three-year review period set if there is related ongoing development of petroleum and gas supplies.

In recent years, landholders, resource tenure holders, OGIA and the department have identified several challenges associated with implementation of Chapter 3 of the Water Act. These challenges are limiting achievement of the original policy intent and efficiencies and do not reflect contemporary regulatory practice – the issues and proposed solutions are discussed in greater detail below.

1. Baseline assessment plans

Currently, separate regulatory processes and obligations exist for resource tenure holders relating to baseline assessments for water bores on and off tenure.

Section 397 of the Water Act sets out obligations for a resource tenure holder to a prepare a baseline assessment plan for water bores that are on tenure. The baseline assessment plan must include a timetable for undertaking baseline assessments of water bores in each priority area of the resource tenure (where an assessment has not already been completed) and state a date by which all baseline assessments in each priority area will be undertaken. Reasoning for each date in the timetable must be provided, and a rationale for the entire timetable must also be included.

In addition, the UWIR also includes the requirement for a program of baseline assessments that the resource tenure holder must carry out for each water bore that is 'off-tenure' and within long-term affected areas (s378(3)).

The separate processes have resulted in inconsistent and duplicative processes. Amending the provisions for baseline assessment plans will provide a consolidated strategy for water bores within the CMA, located on and off-tenure, without imposing new obligations.

2. Extending and clarifying the timing for submission of a new underground water impact report

Currently, a UWIR must be prepared every three years from the day the first underground water impact report for the cumulative management area or resource tenure took effect, even if an extension was granted for the last UWIR. This has been a particular issue for OGIA who prepare the UWIR for the Surat CMA. OGIA have required many extensions due to the need to gather data over the entire CMA area to prepare the next UWIR, which has driven a need for extensions for each subsequent UWIR. Additional feedback on a draft exposure version of the Bill indicated that a routine three-year timeframe was too short to fully consider impacts and gather data for the next UWIR.

Given the continual need for extensions and the stakeholder feedback, the issues related to the UWIR cycle timeframe are to be addressed by amending provisions to extend and clarify the timing for when the next UWIR is due. The intent of the proposal is to provide that a UWIR must be prepared within five years from the previous UWIR's approval (rather than every three years measured from when the first UWIR took effect).

3. Reporting of bore assessments, baseline assessments and make-good agreements

Chapter 3 of the Water Act provides limited mechanisms to allow for OGIA to access current information regarding the status, outcomes and relevant non-sensitive content of make good agreements, creating challenges to ensure compliance in the implementation of agreed make-good measures.

The information is only required from the number of tenure holders that take water from an aquifer for a mining or petroleum activity and have an impact on an existing landholder's ability to access water from the same aquifer. Make-good measures are agreed between the affected landholder and the tenure holder in a make good agreement and ensure the bore owner has access to a reasonable quantity and quality of water for the bore's authorised use or purpose (including providing an alternative water supply) and carrying out a plan to monitor the bore. It is proposed to introduce mandatory reporting requirements regarding the status and outcomes of make good agreements and associated make good measures that are not compensatory in nature.

While the mandatory nature of the reporting is new, many tenure holders currently voluntarily provide this information to OGIA on an annual basis. Much of the required information is already collected and held by tenure holders; the reporting requirement is proposed to extend the use of that information. The proposed annual reporting to OGIA on make good agreements will be additional to current requirements for the following items:

- whether a make good agreement has been reached between the responsible tenure holder and the bore owner; and
- if a make good agreement has been entered into:
  - whether the relevant bore(s) has, or is likely to have an impaired capacity; and
  - if the bore has or is likely to have an impaired capacity:
    - the make good measures for the bore that the responsible tenure holder will take; and
    - an update on (the status of) the make good measures for the bore.

The government is also seeking to enhance provisions relating to the notification to undertake, and notification of the outcome, of baseline and bore assessments. The enhancements will extend existing provisions such that notices are also sent to the OGIA.

Protections are being inserted such that information regarding the personal affairs of an individual within the OGIA database are not made publicly available and only made available to resource tenure holders where relevant to comply with their obligations.

4. Direction for a bore assessment to be completed by tenure holder

Currently there is no legislated process for the owner of a water bore within a resource tenure, to request the resource tenure holder to undertake a bore assessment to properly determine what impaired capacity, if any, exists or will exist for their bore.

A resource tenure holder has an obligation to enter into a make good agreement which contains make good measures that ensure the bore owner has access to a reasonable quantity and quality of water for the bore's authorised use or purpose (including providing an alternative water supply) and carrying out a plan to monitor the bore.

Currently the department receives informal requests or complaints from bore owners regarding the impairment of a bore. Without a legislated process, there are no application requirements for the bore owner and no timeframes set for the chief executive's decision. While most resource tenure holders foster good relationships with impacted bore owners, there may be limited occasions where a bore owner sees a need to determine whether their water bore is impaired. It is proposed to create a bore assessment application process that provides for the interests of both the bore owner and the resource tenure holder.

It is proposed to enable an owner of a water bore to be able to apply, with evidence, to the chief executive to have a bore assessment notice issued to the relevant tenure holder. The chief executive must then decide, within 30 business days, whether or not to issue a direction notice to the relevant tenure holder.

The evidence provided by the bore owner must be linked to the capacity of the bore. Evidence can be related to the bore's pumps or other infrastructure, health and safety risks or information that shows an impact on the bore's ability to provide water for its purpose.

The decision about whether to issue a bore assessment notice will be considered an original decision with associated internal and external review and appeal processes.

The existing provisions for a direction to undertake a bore assessment under section 418 mean that the tenure holder must undertake the bore assessment or make a submission about why they should not be required to undertake the bore assessment. This is intended to provide procedural fairness for the tenure holder as the chief executive must consider the response and impacts to the resource tenure holder.

5. Notice of approved UWIR

Upon approval of the UWIR, the responsible entity is required to send a notice to each bore owner of a water bore within the area to which the UWIR applies. Within the CMA, this means OGIA must send a notice to every bore owner in the CMA. Outside the CMA, the resource tenure holder must send a notice to every bore owner on the resource tenure, as well as any bore owner identified outside the area of the resource tenure but within the long term affected area. As not all bore owners who receive the notice about the approval of the UWIR own bores that are impacted or affected, this expansive notification requirement has resulted in administrative inefficiency and unnecessary confusion for a large number of bore owners. The proposal is to amend the notification requirement in Chapter 3 of the Water Act such that notification is provided to those impacted bore owners who are in the immediately affected area, the long-term affected area or are baseline bore owners.

Objective – The objective of the proposal is to streamline and enhance the regulatory provisions in Chapter 3 of the *Water Act 2000* to ensure processes focus on outcomes associated with good monitoring of groundwater impacts, contemporary modelling and reporting of underground water impacts, and facilitate better coexistence arrangements.

What options were considered?

Regulatory option – Amend Chapter 3 of the Water Act to:

- authorise and require baseline assessment plans for water bores on tenure within priority areas and off tenure within long term affected areas, to be prepared by OGIA, where the bores are within the CMA, or by the resource tenure holder where the bores are outside the CMA;
- require resource tenure holders to report annually to OGIA concerning whether a make good agreement has been reached with a bore owner, whether the bore is likely to have impaired capacity, the status and outcome of any make good measures for the bore, and the outcome of baseline and bore assessments;
- require that an updated UWIR is required to be submitted to the chief executive within five years of its last approval;
- empower OGIA to issue a notice requiring any water bore information from within the CMA from tenure holders or bore owners for the purpose of implementation of make good agreements;
- introduce offences for not complying with a regular reporting requirement;
- broaden information sharing provisions under section 485 of the Water Act to include any relevant data;
- provide for a new process allowing bore owners to apply to have a notice issued to a relevant resource holder to undertake a bore assessment of their bore, and allow for the internal and external review and appeal of decisions made within the new process; and
- streamline notification obligations under section 386 to notify only those bore owners who are impacted by the UWIR approval, being those within the immediate or long-term affected area.

Alternative options – Consideration was given to expanding the information in the existing guideline regarding the alignment of baseline assessment plans for water bores on and off tenure, however this would not adequately address prioritisation issues.

Consideration was given to the non-regulatory option of encouraging increased voluntary reporting and relying on existing notification mechanisms to gather sufficient assessment information. However, the information gained through such options would not be sufficiently consistent to facilitate compliance in the implementation of relevant make good agreement measures.

No feasible alternative option was able to be identified to allow for a bore owner to request a bore assessment be undertaken by a resource tenure holder.

Maintaining the status quo was considered however this would not address the challenges associated with Chapter 3 of the Water Act that are limiting achievement of the original intent of the legislation.

What are the impacts?

Bore owners

Bore owners will benefit from more accurately timed baseline assessments which will provide better information about the capacity of their bore and any impairment to that capacity when a bore assessment is completed. Also, regular reporting on the ongoing status of make good measures for a bore will provide bore owners with the ability to confirm, through the publicly available part of the database, or through the annual review published by OGIA (for the UWIR within the CMA), relevant details of what is happening on the ground in relation to their bore.

The annual update to the baseline assessment strategy for the CMA provides the added benefit of regular and publicly available updates regarding the status of baseline assessments in the CMA. They will also benefit from a process by which they can make a timely request for a bore assessment to determine the extent of the incapacity of their bore. With these additional abilities, bore owners may ensure that make-good measures are appropriate for the relevant bore. While some bore owners will no longer be notified of

an approved UWIR, they will still be notified of consultation on the proposed UWIR prior to its approval, limiting the potential impact of reducing notification to those owners.

Resource Industry
The resource industry will be subject to increased formalised reporting requirements, particularly in relation to make good agreements, however many tenure holders within the CMA are already voluntarily providing this information to OGIA. Resource tenure holders who may be subject to a bore assessment requirement will continue to have both internal and external review and appeal avenues to safeguard their interests, as well as the continued ability to make a submission to the chief executive on why a bore direction notice should not be issued.

Resource tenure holders (within the CMA) – Resource tenure holders within the CMA will no longer have to prepare an individual baseline assessment plan, reducing their regulatory burden. While they will be subject to the baseline assessment strategy set by OGIA. Tenure holders will have the flexibility of notifying OGIA of changes to production planning to inform an annual update to the baseline assessment strategy which will be consulted upon with those affected prior to being published. Tenure holders will also retain the ability to agree to amendments to the baseline assessment strategy with OGIA. Resource tenure holders will be able to provide a submission on the UWIR regarding their baseline assessment strategy to allow for compliance with obligations and any associated conditions provided with the approved UWIR.

Resource tenure holders (outside the CMA) – Resource tenure holders outside of a CMA will not be impacted by changes to baseline assessment strategy, as the changes only apply within the CMA. Tenure holders outside the CMA will benefit from a longer period of time to prepare the next UWIR.

Government
OGIA will be subject to additional obligations in preparing the UWIR for the CMA and providing the baseline assessment strategy and annual updates for relevant water bores, however this will facilitate OGIA to carry out its functions more wholesomely. The government will also benefit from a more extensive database of relevant information as a result of annual reporting and more time to collate and process information for the next UWIR.

Increases in administrative burden will be seen for government with the additional processing of the applications of bore owners for bore assessments and the decision-making for this new process. This impact is counterbalanced by greater certainty in the outcomes of make good agreement measures for bores as well as additional, relevant information concerning bore capacities.

Government, in particular OGIA, will experience a reduction in administrative burden coinciding with reduced bore owner notification obligations.

Courts
The new process allowing for a bore owner to request a bore assessment will also create the potential for new matters to be considered by the Land Court via the Water Act's existing appeal process. This impact is not expected to be significant due to anticipated low occurrence rates of seeking an appeal.

The Community
The community will benefit from greater transparency with more data accessible via the publicly available portion of the database under section 483 of the Water Act.

Removing administrative challenges will create positive regulatory impacts by increasing the effectiveness and appropriateness of the regulatory framework.

Overall, compliance costs are likely to be negligible, as the costs of changed regulation measures will be offset by the reduced ongoing costs of regulation.
Who was consulted?
Initial consultation for this proposal was as per the summary provided for the first proposal outlined above. Submissions on the proposals for the Water Act highlighted the need for more detail to allow for evaluation of the potential effectiveness and implications of the proposals. Some environmental and legal professional groups supported the proposals (particularly amendments to provide appeal rights and internal/external review mechanisms), noting that will improve procedural fairness, access to justice and lead to better public interest outcomes in water management. Some resource groups were supportive, insofar as the amendments operate to reduce red tape and streamline processes, rather than increase regulatory burden. In response to feedback on the consultation paper, further detail was provided to stakeholders as supplementary information with a draft exposure version of the Bill. Focused meetings about the Water Act changes were also held with interested parties. In response to feedback on the draft exposure version of the Bill, changes were made to the proposals to allow for a more practical timeframe for the UWIR cycle, consider practicalities for planning baseline assessments in the CMA, clarify when a bore owner may apply for a bore assessment notice and provide streamlined transitional arrangements.
What is the recommended option and why?
The regulatory option is recommended, as this is the only option which allows for the challenges associated with implementation of the regulatory provisions in Chapter 3 of the Water Act to be addressed. The amendments ensure outcomes associated with good monitoring of groundwater impacts, contemporary modelling and reporting of underground water impacts, and better coexistence arrangements, and thereby provide the greatest net benefit to the community.

Impact assessment

All proposals – complete:

	First full year	First 10 years**
Direct costs – *Compliance costs**	Information included above in each assessment	Information included above in each assessment
Direct costs – *Government costs*	Information included above in each assessment	Information included above in each assessment

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Director-General
Department of the Environment, Tourism Science and Innovation
Date: 20 / 11 / 2025

Andrew Powell MP
Minister for the Environment and Tourism
Minister for Science and Innovation
Date: 28 / 11 / 2025