Queensland Government

Ref CTS 00843/12

Department of
Environment and Resource Management

08 FEB 2012

The Honourable Carryn Sullivan MP
Chair
Environment, Agriculture, Resources and Energy Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Ms Sullivan

Thank you for your letter dated 22 November 2011, and the email from Mr Robert Hansen dated 23 December 2011 to Mr Jim Reeves, Director-General, regarding the Committee's inquiry into the Environmental Protection (Greentape Reduction) and Other Legislation Amendment Bill 2011 (the Bill).

Please find enclosed my department's response to your request for information on the background and major policy drivers of the Bill and the Department of Environment and Resource Management's (DERM) public consultation processes during the development of the Greentape Reduction Bill, along with written advice on the issues raised in submissions received by the Committee. The response has been prepared following the advised whole-of-government approach from the Department of the Premier and Cabinet. It adheres to paragraph six of the Code of Practice for Public Service Employees assisting or appearing before Parliamentary Committees of Standing Orders. I appreciate the opportunity to respond to issues identified by the Committee throughout its inquiry.

Background and major policy drivers for the Bill

The Greentape Reduction project was announced in 2009 as part of *ClimateQ: Toward a greener Queensland*. The Greentape Reduction project reforms the licensing application and assessment processes under the *Environmental Protection Act 1994* (EP Act) to reduce costs for industry and government while upholding environmental standards for the community. It will contribute estimated savings of $12.5M per year towards the Queensland Government's Smart Regulatory Reform Agenda target to reduce compliance costs by $150M each year by the end of 2013.

The Bill redrafts all of the provisions of the EP Act relating to environmental licensing for environmentally relevant activities (ERAs) with a focus on streamlining and clarifying assessment and approvals processes. Major features of the Bill include delivering a single legislative process with five clear stages for all ERAs including resources activities and providing for flexible environmental authorities that will enable administrative efficiencies such as through amalgamations of environmental authorities. The changes provide benefits and savings to all regulated operators from motor vehicle workshops to large mines. This is done through changing administrative processes without reducing or removing any environmental standards that businesses are required to meet.

Level 13
400 George Street Brisbane Qld 4000
GPO Box 2454 Brisbane
Queensland 4001 Australia
Telephone + 61 7 3330 6301
Facsimile + 61 7 3330 6306
Website www.derm.qld.gov.au
ABN 46 640 294 485

In addition to the Bill, non-regulatory improvements are a key component of the Greentape Reduction project. Guidance materials will be rewritten to clarify and prioritise information that is relevant to making a decision on an application. This will reduce the time an applicant spends preparing an application and facilitate robust and timely decisions by the administering authority. Changes to information systems will be staged to deliver sophisticated functionality and modern business services for clients and the community including online public registers, application, annual return and fee payment options.

Further information about the background and major policy drivers for the Bill are contained in the Explanatory Notes to the Bill.

Consultation

Key industry, community and government stakeholders have been extensively consulted at all stages of the Greentape project. Consultation commenced with peak business bodies in April 2010. From May to June 2011, the community was consulted on a discussion paper and regulatory assessment statement; and in September 2011 key stakeholders were consulted on an exposure draft of the Bill.

Stakeholder working groups including a Business Advisory Committee and local government working group have provided DERM with advice on specific issues. The Business Advisory Committee includes representatives from the Australian Petroleum Production and Exploration Association, Queensland Resources Council, Australian Industry Group, Cement Concrete and Aggregates Australia, Queensland Confederation of Industry, Queensland Farmers' Federation and Waste Contractors and Recyclers Association of Queensland.

Consultation on the Regulatory Assessment Statement and Discussion Paper

The *Greentape Reduction – Reforming licensing under the Environmental Protection Act 1994, Discussion Paper and Regulatory Assessment Statement* was released for public consultation from 23 May to 1 July 2011. Letters were posted to the 4200 registered operators of ERAs administered by DERM inviting them to attend an information session to discuss the proposals contained in the discussion paper and regulatory assessment statement. Letters were also written to each local government and a letter included for them to send to holders of environmental authorities for ERAs administered by them.

DERM officers held 26 information sessions at 12 localities across the State, which were attended by nearly 600 people from industry and state and local governments. In July 2011, additional information sessions were held at the request of specific key industry stakeholders including the Australian Sugar Milling Council, Waste Contractors and Recyclers Association of Queensland, Qldwater and North Queensland Small Miners Association.

In addition to receiving 45 written submissions on the discussion paper and regulatory assessment statement, a two-page feedback form was provided for completion at the information sessions. A total of 165 feedback forms were received at the end of the information sessions including 84 from industry and 81 from government attendees. Overall, support for all initiatives was high with the majority of responses at the 4-5 end of the scale of 1-5 (where 5 is high); 74% of all responses were positive; and 95% of responses were neutral to positive. Industry was the most positive about the proposed initiatives, followed by government and then local government.

Of the 45 formal submissions that were received on the discussion paper and regulatory assessment statement, 21 submissions were from industry; 16 from local government and eight from community stakeholders. Overall, stakeholders responded positively to the proposals contained in the discussion paper and regulatory assessment statement.

The discussion paper and the consultation report which reported on the results of the consultation on the discussion paper are available on the department's website for the Greentape Reduction project at:
http://www.derm.qld.gov.au/environmental_management/greentape/background.html .

Targeted consultation on the exposure draft of the Greentape Bill
In September 2011, targeted consultation was undertaken on an exposure draft of the Bill. This consultation included the Business Advisory Committee, local governments, the Queensland Law Society, the Environmental Defenders Office, and Qldwater. Many of the concerns raised through this targeted consultation have been raised in respective submissions through the committee process.

Of the issues raised on the consultation draft of the Bill, none are considered to be major. A number of minor amendments to the draft Bill and explanatory notes were made to address these issues.

Community
The Environmental Defenders Office and the Queensland Law Society were unable to provide comments on the Bill in the required time. Both were offered extensions to enable them to do so.

Industry
Submissions were received from the Australian Petroleum Production and Exploration Association, Queensland Resources Council, Australian Industry Group, and Cement Concrete and Aggregates Australia. Concerns raised from industry included the new third party auditor provisions, the ability of DERM to change the standard conditions and the interplay between the issues managed under the development permit and those under the environmental authority. Industry groups also raised concerns regarding the availability of additional guidance regarding the legislative changes, as well as for specific issues such as changes to financial assurance provisions, the removal of the environmental management plan and subsequent increased information requirements through the application process.

Many of these issues have been addressed in the attached response to submissions made to the EAREC. Part of the implementation process includes the development of guidance material to clarify the requirements under the Act for both internal and external parties. This guidance material will cover the issues raised by industry including the differentiation of issues dealt with under the development permit and the environmental authority, as well as the information required for a properly made application. The development of these materials will alleviate many of the concerns raised in the industry submissions.

Local Government
The Local Government Working Group consisted of the Local Government Association of Queensland and the local governments of Balonne, Brisbane, Gladstone, Fraser Coast, Ipswich, Banana, and Rockhampton. Submissions on the Bill were received from Brisbane and Ipswich City Councils. Council submissions raised concerns related to increased administrative burdens and complexities, the interaction between the development permit and the environmental authority, and the operation and management of the suitable operator register.

Council submissions also requested further clarity regarding the definition and operation of amalgamated authorities and an applicant's environmental record. Many of the issues related to administrative complexities and were raised in submissions to the Committee and are addressed in the enclosed response. Further guidance provided as part of the implementation package will clarify many of these issues and provide sufficient guidance for council officers responsible for administration of new processes under the Bill.

Should you have any further enquiries, please do not hesitate to contact Ms Elisa Nichols, Director, Environmental Policy and Legislation of the department on telephone 3330 5988.

Yours sincerely

Jim Reeves
Director-General

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ENVIRONMENTAL PROTECTION (GREENTAPE REDUCTION) AND OTHER LEGISLATION AMENDMENT BILL 2011
REPORT OF THE DEPARTMENT OF ENVIRONMENT AND RESOURCE MANAGEMENT

Date: 27 January 2012

RESPONSE BY CLAUSE/ISSUE

Cl	Section/initiative	Submitter/issue	Response
5	Amendment of Section 51 Public notification	**No. 3 QLS** The Queensland Law Society (QLS) is seeking a mechanism for publication of the EIS on a website to be withdrawn if the EIS has been withdrawn and replaced.	**Background** • Section 51 requires publication of the Environmental Impact Statement (EIS) notice in a newspaper as well as giving the EIS notice to certain persons. • This clause amends section 51 to also require publication of the submitted EIS on the proponent's website. • This requirement was inserted to assist public access to EIS documents. • The EIS must be published on the proponent's website from the start of the submission period until either the EIS process is terminated, or until 1 year after the EIS assessment report is given. • The proponent may choose to retain the information on it's website for longer. • Under section 66 of the existing *Environmental Protection Act 1994* (EP Act), the submitted EIS is taken to be the original EIS plus any amendments to the EIS. • Consequently, it is the submitted EIS (as amended) which must be retained on the website.

Cl	Section/initiative	Submitter/issue	Response
			Comments • The clause, as drafted, is consistent with the Government's position in relation to this matter.
5	Amendment of Section 51 Public notification	**No. 9 QMDC** The Queensland Murray-Darling Committee Inc. recommended development of a code of conduct for community engagement and disclosure of information.	**Background** • Community engagement and disclosure of information rights have not been eroded by this Bill. • The amendments in this Bill improve transparency and public notification requirements by requiring that information pertaining to public notification requirements be kept on the proponent's website. **Comments** • The clause, as drafted, is consistent with the Government's position in relation to this matter.
5	Division 3 Applying for environmental authorities	**No. 2 Ipswich City Council** Ensuring that there is a clear split between the role of the environmental authority and the development permit	**Background** • Currently, prescribed environmentally relevant activities (ERAs) (previously known as chapter 4 activities) require a registration certificate, but are assessed under the Integrated Development Assessment System (IDAS) in the *Sustainable Planning Act 2009* (SP Act). • Clause 30 omits and replaces section 426 with a new section 426 which requires that all persons must not carry out an environmentally relevant activity unless holding an environmental authority. • The proposed amendment will mean that activities that are currently prescribed ERAs will require an environmental

Cl	Section/initiative	Submitter/issue	Response
			authority and in most cases a development permit. • To protect the integrity of IDAS, where a material change of use application relates to an environmentally relevant activity (ERA), the application for the development permit will be taken to be an application for the ERA. • This model incorporates 'the best of both worlds' with an integrated assessment of both planning issues and the ongoing management of the activity through the SP Act and two separate documents (the development approval and the environmental authority) for the planning approval and the ongoing management of the activity. • The major benefits of separating the environmental operating conditions from the development permit are: – There will no longer be a requirement to hold a registration certificate, reducing unnecessary administrative burden. – It will be simpler for an operator to amend conditions on the environmental authority through a simple application process without always triggering new development permit approvals. – It will be much simpler to transfer the environmental authority (or amalgamated authority) to another suitable operator through a straightforward application process. – It allows for corporate licenses to be developed whereby one licence can cover multiple sites. – Operators of mining and petroleum activities will substantially benefit from only having to manage one approval type where there are multiple ERA types

Cl	Section/initiative	Submitter/issue	Response
			onsite. – The Department of Environment and Resource Management (DERM) will benefit from the administrative streamlining by maintaining only one type of approval under the EP Act. • To ensure there is a clear divide between those things regulated on the development permit, and those regulated on the environmental authority, DERM is developing a code for IDAS. • This code will clearly set out those issues that are to be regulated on the development permit. • Clause 74 of the Bill also gives power to the Planning Minister to resolve conflicts between conditions on an environmental authority and those issued by another concurrence agency. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Insertion of new chapters 5 and 5A	**No. 2 Ipswich City Council** Statutory rules or a level of assessment below standard approvals is not supported	**Background** • The Bill introduces three different application (or assessment types) which are standard applications, variation applications and site specific applications. • The purpose of introducing these application types is to provide a licensing framework where the level of assessment appropriately and proportionately responds to the level of risk presented by the activity.

Cl	Section/initiative	Submitter/issue	Response
			• For prescribed ERAs, there are no application types below standard approvals in the Bill. • Environmental authorities for prospecting (a type of mining activity) were always approved via a mechanism similar to the "statutory rules" track in the discussion paper. These activities will no longer need to apply for an environmental authority, but must comply with the prescribed conditions as in the *Environmental Protection Regulation 2008* (EP Reg). • Prospecting activities are not devolved to Local Government. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Insertion of new chapters 5 and 5A	**No. 2 Ipswich City Council** **No. 7 Logan City Council** The return to multiple licenses (environmental authority and development permit) is not supported due to the confusion that this will create for regulators, industry and the community The Logan City Council submission notes the historical relationship between the environmental authority and the	**Background** • The environmental approval and conditions for chapter four activities were rolled into IDAS in the *Integrated Planning Act 1997* (now superseded by the *Sustainable Planning Act 2009*) in 1998. • This change brought about a range of benefits resulting from a more integrated approval process. • During early consultation and on the discussion paper "Greentape Reduction—Reforming licensing under the *Environmental Protection Act 1994*—Discussion Paper and Regulatory Assessment Statement", feedback from industry clearly demonstrated that there was a range of

Cl	Section/initiative	Submitter/issue	Response
		development permit, and concludes similarly that recent history has proven that the proposed split will not result in greater regulatory efficiencies.	inefficiencies that resulted from the ongoing management of an activity under the development permit. • These inefficiencies are because, under the SP Act, a development permit attaches to the land, and is not flexible in responding to changes in environmental and business management practices. • The separation between the environmental authority and the development permit under the Bill keeps the best aspects of the integration under IDAS in the SP Act, while providing greater flexibility for the ongoing management of an activity. • The integrity of IDAS is maintained by retaining the IDAS process to assess the environmental authority where a material change of use for the ERA is also required. • However the ongoing operation of the activity will be managed under an environmental authority that responds more appropriately to the ongoing operation of the activity. • This model incorporates 'the best of both worlds' with an integrated assessment of both planning issues and the ongoing management of the activity through the SP Act and two separate documents (the development approval and the environmental authority) for the planning approval and the ongoing management of the activity. • Environmental authorities for prospecting (a type of mining activity) were always approved via a mechanism similar to the "statutory rules" track in the discussion paper. These activities will no longer need to apply for an environmental authority, but must comply with the prescribed conditions

Cl	Section/initiative	Submitter/issue	Response
			as in the EP Reg. • Prospecting activities are not devolved to Local Government. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Insertion of new chapters 5 and 5A	**No. 7 Logan City Council** There has been a significant amount of regulatory change for operators of ERAs since 1995. This change has resulted in a great burden for business and industry which will be repeated if the Bill is passed by Parliament.	**Background** • The Bill substantially retains the consolidation of approval types that have been achieved through previous amendments but refines the distinction between the regulation of development as defined in the SP Act and the regulation of the ongoing use of an Environmentally Relevant Activity (ERA). • The amendments proposed in the Bill support the distinction between development and ongoing use which underpin the SP Act and its predecessor the *Integrated Planning Act 1997*. • Under the Bill development as defined in the SP Act will be permitted by a development permit issued under the SP Act while the ongoing use is authorised by an environmental authority issued under the EP Act. • Where an ERA is also development under the SP Act, the Bill retains IDAS as the single assessment process for both approvals. • The benefits to business from the changes proposed in the Bill outweigh the cost to business of adjusting to the

Cl	Section/initiative	Submitter/issue	Response
			changes in approvals. The proposed changes have been widely supported by business as a result of these relative benefits, see page 4 of the Greentape Reduction Consultation Report. • The terminology used in the Bill has been selected to reflect common English usage where possible. It is not possible to retain the term holder of a registration certificate as there will be no registration certificate under the amendments in the Bill. Further the Bill provides for a person to be registered as a suitable person in advance of other approvals which is a different concept to being the holder of a registration certificate under the existing provisions. • A further benefit is that operators only need to be registered once across the State, rather than for every operation as is presently the case. • DERM will continue to offer local governments the opportunity for meaningful consultation during the development of any new regulations. There is no proposal to vary ERA definitions or to remove the ability for flexibility for local governments to set annual fees. • The cost savings calculated in the RAS were based on there being no change in revenue collected by local governments. The methodology and assumptions used to calculate savings is detailed in the Regulation Assessment Statement (RAS) document on pages 29-30.

Cl	Section/initiative	Submitter/issue	Response
			Comments • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Insertion of new chapters 5 and 5A	**No. 7 Logan City Council** The cost estimates for the Greentape reforms are inaccurate because they are based on the fees in the EP Reg rather than being based on those that individually set by each local government.	**Comments** • The cost estimates in the RAS document did not take account of savings to local governments due to the variability in the way that local government charge fees (see page 26 of the RAS document). Accordingly, the estimates in the RAS are conservative.
8	Part 1 Division 4 and Part 2 – Some general comments	**No. 3 QLS** The QLS queried whether the reintroduction of environmental authorities for 'prescribed ERAs' is a reduction in greentape. The QLS is concerned that numerous frequent changes to the names of approvals for prescribed ERAs in recent years have led to widespread confusion.	**Background** • When the EP Act was originally introduced in 1994, the licensing mechanism for all ERAs was an environmental authority. • In 1998, 'prescribed ERAs' were rolled into the *Integrated Planning Act 1997* (now the *Sustainable Planning Act 2009*) framework. • The feedback DERM received from regulators and from industry as part of this project was that while the integrated assessment of a new project worked fairly well, the development approval did not work particularly well for the ongoing management of the operation. • In addition, operators of mining and petroleum activities were required to manage multiple approvals (e.g. environmental authority (mining activities) plus development approval/s) where different types of ERAs were being undertaken on the same site. This could lead to

Cl	Section/initiative	Submitter/issue	Response
			inconsistent and conflicting conditions. • The separation of the environmental authority (for ongoing management of the operation) and the development approval (for planning approval) was developed as a response to these concerns. • The reintroduction of environmental authorities for 'prescribed ERAs' is not a return to the pre-2004 framework. Rather, it incorporates the best of both worlds with an integrated assessment of both planning issues and the ongoing management of the activity through the SP Act and a separate document (the environmental authority) for the ongoing management of the activity. • As part of the administrative implementation for the Greentape project, DERM has developed a rolling implementation plan to update the physical documentation to reflect the proper name of the document. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Part 4, Division 2 Public notice	**No. 4 EDO** The EDO raised concerns about access to the public notice, application and supporting materials for members of the community who wish to make a submission or objection. The EDO also has concerns that the	**Background** • Currently, there is no requirement to keep notification information on a website. • Under the Bill, where a site-specific application is required to go through the notification stage, the applicant will be required to keep copies of the application notice and the application documents on a website (see section 156 of the Bill).

Cl	Section/initiative	Submitter/issue	Response
		timeframe for public objections to mining leases and environmental authorities is shorter under the Bill. This is addressed below.	• The administering authority must keep applications open for inspection by members of the public during office hours at head office, the regional office nearest to the land and keep a copy on its website for the access period (see section 157 of the Bill). • Consequently, community access has been improved under the Bill. **Comments** • The sections, as drafted, are consistent with the Government's position in relation to this matter.
8	Part 4, Division 2 Public notice	**No. 9 QMDC** The QMDC raised the same concerns as those outlined for clause 5 (amendment of section 51)	**Background** • The background for these sections is outlined in the response to the EDO submission (above). • Community engagement and disclosure of information rights have not been eroded by this Bill. • The amendments in this Bill improve transparency and public notification requirements by requiring that information pertaining to public notification requirements be kept on the proponent's website. **Comments** • The clause, as drafted, is consistent with the Government's position in relation to this matter.
8	Part 5, Division 3, Subdivision 2 Section 182	**No. 4 EDO** The EDO has concerns that the Bill will reduce the timeframe for public objection	**Background** • The existing *Environmental Protection Act 1994* (EP Act) requires DERM to make its decision about the conditions of

Cl	Section/initiative	Submitter/issue	Response
	(Submitter may give objection notice)	to proposed mining leases.	the environmental authority before the public notice stage. Consequently, it does not have the ability to consider these submissions prior to giving the draft environmental authority. • This Bill changes that process so that submissions can be made on the application documents (i.e. like most other processes involving submissions). • This allows concerns raised by submitters to be addressed in the preparation of the draft environmental authority rather than forcing submitters and applicants into an objection process. • The timeframe for submissions must be at least 20 business days. This is the same as the timeframe for objections under the existing EP Act. • Once the decision has been made and the draft environmental authority has been issued, the submitter then has 10 business days to decide whether to turn their submission into an objection (i.e. for the Land Court process). • DERM intends to develop a simple tick-a-box form for the submitter to notify us that they wish to turn their submission into an objection. **Comments** • This section, as drafted, is consistent with the Government's position in relation to this matter.

Cl	Section/initiative	Submitter/issue	Response
8	Part 5, Division 3, Subdivision 2 Section 182 (Submitter may give objection notice)	**No. 9 QMDC** The QMDC has concerns that the Bill will reduce the timeframe for public objection to proposed mining leases.	**Background** • The background for this section is outlined in the response to the EDO (above). **Comments** • This section, as drafted, is consistent with the Government's position in relation to this matter.
8	Part 8 Amalgamating environmental authorities Division 1 Preliminary	**No. 2 Ipswich City Council** It is recommended that the Bill be amended so that corporate authorities include generic requirements and requirements that apply to specific sites.	**Comments** • It is not necessary to include this in the Bill. This will be done via guidelines and a template to demonstrate how to set out a corporate authority (i.e. administratively)
8	Section 110 What is a *mining activity*	**No. 3 QLS** The QLS raised concerns that the simplification of the definition of 'mining activity' meant that the rights under the current section 147 to access land that is not part of the mining tenement was revoked.	**Background** • Section 147 of the existing section provides that the activity has to be authorised to take place on the land under the Mineral Resources Act, either as a mining tenement or as access land. • The new definition of 'mining activity' still requires that the activity be an authorised activity for a mining tenure. • 'Mining tenure' is defined in the Dictionary in the Bill to be a prospecting permit, ..., or *any approval under the MR Act which grants rights over land* (emphasis added)". **Comments** • Since rights over land would include access rights, these rights have not been revoked.

Cl	Section/initiative	Submitter/issue	Response
8	Section 112 Other key definitions for ch 5	**No. 9 QMDC** That threshold limits are included within the eligibility criteria and a public consultation process be commenced before the Bill is passed to make comment on the eligibility criteria.	**Background** • The Bill provides for eligibility criteria to be defined for an ERA which is to be assessed as a standard application. The approval will only be processed as a standard approval if the proposed activity meets the eligibility criteria. • The framework in the Bill allows threshold conditions to be included in eligibility criteria where appropriate. • The Bill does not include eligibility criteria. • Where the eligibility criteria are made by the chief executive, the Bill includes a public consultation process of 30 business days during which stakeholders may comment. **Comments** The Bill currently allows eligibility criteria to include threshold values and includes a public consultation process.
8	Section 113 Single integrated operations	**No. 3 QLS** The QLS queried: - why criteria (c) was for activities carried out at 1 or more places - which criteria (a) required the activities be under the management of a 'single responsible person' rather 'single responsible entity' - what the interpretation of 'distances short enough' would be	**Background** • The definition of 'single integrated operation' is currently contained in section 73F of the existing EP Act, but it only applies to prescribed ERAs. • The phrase 'single integrated operation' is also used for resource activities, but it is not currently defined. • This Bill applies the same definition to all ERA types. **Comments** • The current definition requires that activities be carried out at 2 or more places. This part of the definition was revised for this Bill so that multiple ERAs carried out on one site could also fit within the definition of 'single integrated

Cl	Section/initiative	Submitter/issue	Response
			operation'. This part of the definition was retained to make that clear. • The concept of a 'single responsible person' is in the current definition of 'single integrated operation'. It was revised to make it clear that, in this context, a person is an individual (e.g. a site or operations manager), not a single corporate entity, as that would be inappropriate in the circumstances. • The phrase 'distances short enough' is used in the current definition. Guidance material will provide assistance on what is considered a short enough distance as this can vary depending on the nature of the operation. • DERM has discussed the QLS comments on this section with the Office of the Queensland Parliamentary Counsel (OQPC). OQPC considers the matters raised by QLS are not 'drafting errors'.
8	Section 114 Stages of assessment process	**No. 9 QMDC** QMDC is concerned that when each stage does not apply, key issues may slip through the safety net and opportunities for public consultation will be lost creating a lack of transparency and confidence in the process, for example, it is unclear as to whether the public be notified or advised as to which stage each application sits and which stage it is exempt from	**Background** • This section sets out the stages of the assessment process. • Some stages will not apply to all applications. For example, the status quo is that not all applications are required to complete the notification stage and has been maintained in the Bill. • At the start of each stage, is a section which specifies whether that stage applies to the application (see for example, section 138 of the Bill). • Consequently, it is clear which stage applies to which type of application.

Cl	Section/initiative	Submitter/issue	Response
			Comments • The clause, as drafted, is consistent with the Government's position in relation to this matter.
8	Section 115 Development application taken to be application for environmental authority in particular circumstances	**No. 3 QLS** The QLS raised typological concerns and an issue about how a development application could be a 'properly made application' for the environmental authority. Also, for subsection (5), just because an element of the development application is changed, it does not necessarily follow, in practical terms, that this should impact on the ERA component of the application.	**Background** • For an application to be properly made through the SP Act, it must comply with the form (see section 260(1)(b) of the SP Act). • Subsection (5) states that "if the development application lapses or is changed or withdrawn under the Planning Act, the application for an environmental authority for the prescribed ERA is also taken to have lapsed or been changed or withdrawn". The purpose of this section is to ensure that the timeframes for the assessment of the ERA component matches the IDAS timeframes under the SP Act. If the change does not impact on ERA assessment, then the change would not be assessed, just as the non-ERA components of the development application (in general) are not assessed under the EP Act. **Comments** • Questions about typographical errors have been referred to OQPC. DERM and OQPC consider the two matters QLS mentions are correct as drafted. • The concerns about the development application being a 'properly made application' for the environmental authority will be addressed through amendments to the application form for a development application.

Cl	Section/initiative	Submitter/issue	Response
			• The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 117 Restriction for applications for resource activities	**No. 3 QLS** The requirement should be for the person to be either the applicant or the holder of the tenement. The application could be for a replacement environmental authority.	**Background** • The current EP Act refers to applications for environmental authorities being made by either applicants for tenure or holders of tenure. • However, if an operator is currently the holder of tenure, then they must have an associated environmental authority. • If the holder of the tenure is seeking to make changes to their environmental authority, this would be an amendment application and section 117 would not apply. • Under the Bill, a person does not make an application for a replacement environmental authority. The person applies for either an amendment, a transfer, or an amalgamation, and the replacement environmental authority is issued (see definition of "replacement environmental authority" in the Dictionary in the Bill). **Comments** • The section, as drafted, is consistent with the Government's position in relation to this matter, and no 'drafting errors' have been identified. • However, section 119, which refers to applying to replace the environmental authority is incorrect and DERM will seek approval to amend this section to remove the words "or replace".

Cl	Section/initiative	Submitter/issue	Response
8	Section 118 Single application for ERA projects, and Section 119 Single authority required for ERA projects	**No. 3 QLS** The QLS does not support a compulsion for a single application for all relevant activities forming a project.	**Background** • This requirement is currently in the EP Act. • One of the reasons for this section is to prevent projects being assessed as standard or variation applications when the project as a whole would not meet eligibility criteria. **Comments** • The sections, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 120 Application for environmental authority can not be made in particular circumstances	**No. 3 QLS** The QLS previously raised concerns about the unilateral termination of mining interests on North Stradbroke Island without recourse to any form of compensation or review of the decision.	**Comments** • This section does not terminate existing mining interests. It merely ensures that future applications which are inconsistent with the *North Stradbroke Island Protection and Sustainability Act 2011* cannot be made. • This carries over the status quo with the separation of the development approval from the environmental authority.
8	Section 121 Types of application	**No. 9 QMDC** QMDC request the opportunity to speak to this clause at the Hearing if given an opportunity.	**Comments** • QMDC have not raised an issue about this section for DERM to comment on.
8	Section 122 What is a *standard application*	**No. 6 ACLCA** ACLCA seeks clarification that notifiable activities will not fall into a standard application. **No. 2 Ipswich City Council** Local governments should be properly and openly consulted when determining	**Background** • A standard application is made when an application relates to an activity for which eligibility criteria are in effect, and the activity complies with both the eligibility criteria and the standard conditions. • When a standard application is approved, an environmental authority will be issued, and this authority will be subject to standard conditions for the activity.

Cl	Section/initiative	Submitter/issue	Response
		the appropriate track (e.g. standard approval, site specific approval)	• Sections 317 and 318C of the Bill set out a transparent process whereby draft eligibility criteria and standard applications must be consulted on. • "Notifiable activities" are activities which DERM must be informed of in order to record the particulars of the land in the environmental management register. This aspect of the EP Act is outside of the licensing framework which is amended by this Bill. **Comments** • In addition to the consultation process outlined in the Bill, DERM intends to release a report for consultation which sets out the ERAs that are considered to be appropriate for standard applications and a program for developing standard applications.
8	Section 124 What is *site specific application*	**No. 9 QMDC** QMDC recommends refining the definition in line with the detail afforded the standard and variation applications.	**Background** • All applications for environmental authorities are site specific applications unless they are standard or variation applications. **Comments** • Site specific applications are adequately defined.
8	Section 125 Requirements for applications generally	**No. 2 Ipswich City Council** In relation to non-standard approvals, it is recommended that the regulator should be able to amend conditions not	**Background** • The regulator can amend any condition to the extent it relates to the subject of the condition to be changed (i.e. if the condition being changed is a noise condition, they can

Cl	Section/initiative	Submitter/issue	Response
		identified in the application.	change other noise conditions, but couldn't unilaterally change water conditions) – see section 175 in the Bill. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 125 Requirements for applications generally	**No. 9 QMDC** QMDC is concerned with the statutory declaration as a means to confirm the eligibility criteria are complied with. QMDC also has concerns about the exception for standard applications under section 125(1)(l), and the assessment of environmental values under section 125(1)(l)(i)(c). QMDC further requests section 125(1)(m) be removed from the Bill.	**Background** • Standard applications will apply to lower risk activities for which the environmental risks and management options are well known. • If an activity does not meet the eligibility criteria, there is a requirement under section 314 of the Bill that the authority be replaced. There are significant penalties under section 314(7) of the Bill if the holder of the authority fails to replace the authority. • The assessment under section 125(1)(l) does not apply for standard applications because the impact on environmental values is considered in the development of eligibility criteria and standard conditions • Making the standard conditions and eligibility criteria includes a public notification and submission period for both the eligibility criteria (section 317) and the standard conditions (section 318C). An explanation of the assessment of environmental impacts of these activities will be made available. • Providing specific guidance related to the quality and type of information required for an application for specific

Cl	Section/initiative	Submitter/issue	Response
			activities is part of the wider Greentape Reduction project. • Section 125(1)(m) is inserted into the Bill for the purposes of fairness, i.e. so that a holder of an environmental authority does not have to pay for the annual fee for an activity that has not yet commenced. **Comment** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 126 Requirements for site-specific applications – CSG activities	**No. 9 QMDC** QMDC recommended: 1. That clause 126(1) include other identified key environmental risks and impacts. 2. That clause 126(2) be removed from the Bill.	**Background** • The requirements under section 126(1) for CSG activities are in addition to the consideration of impacts required generally for applications under s125.. • Section 126(2) retains the current requirement that operators exhaust all other feasible options before considering the use of an evaporation dam. **Comment** • The clauses, as drafted, are consistent with the Government's position in relation to this matter. • The removal of section 126(2) would reduce environmental standards.
8	Section 138 When information stage applies	**No. 9 QMDC** QMDC raised the same concerns for this section as those discussed in relation to section 125, above, i.e. that standard applications are exempted from the information stage.	**Background** • The assessment of the potential risk to environmental values is completed during the development of the eligibility criteria and standard conditions. • Because the assessment in relation to these activities has been carried out, no further information is required during

Cl	Section/initiative	Submitter/issue	Response
			the application process. **Comment** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 139 Information state does not apply if EIS process complete	**No. 9 QMDC** QMDC is concerned that if there is no formal process to require the information stage for an applicant's proposed project because the EIS is complete, a review of environmental risks to consider any key changes during the time that has lapsed since the EIS is necessary.	**Background** • Section 139 provides that the information stage does not apply where the proponent has completed an EIS under chapter 3 of the *Environmental Protection Act 1994* which covered all of the ERAs the subject of the application, and the environmental risks of the activity and the way the activity will be carried out have not changed since the EIS was completed. • The intention of this provision is to prevent duplicate requirements by the administering authority where the information in the EIS is sufficient to assess the environmental risks of an activity. • Consequently, if the nature or location of the environmental risks has changed, or the scope of the project has changed so that the environmental risks are equivalent but different, this section would not apply and the information stage would apply to the application. • Whether these criteria have been met would be a matter of fact. **Comments** • The section, as drafted, is consistent with the Government's

Cl	Section/initiative	Submitter/issue	Response
			position in relation to this matter.
8	Section 150 Notification stage does not apply if EIS process complete	**No. 9 QMDC** QMDC raised the same concerns for this section as those discussed in relation to section 139, above.	**Background** • Section 150 provides that the notification stage does not apply where the proponent has completed an EIS under chapter 3 of the *Environmental Protection Act 1994* which covered all of the ERAs the subject of the application, and the environmental risks of the activity and the way the activity will be carried out have not changed since the EIS was completed. • In addition, the administering authority must be satisfied that the change would not be likely to attract a submission objecting to the thing the subject of the change, if the notification stage were to apply to the change. • The intention of this provision is to prevent duplication where the project has already has to satisfy the public notification requirements in the EIS on the same basis as the public notice requirements of this stage. • Consequently, if the nature or location of the environmental risks has changed, or the scope of the project has changed so that the environmental risks are equivalent but different, this section would not apply and the notification stage would apply to the application. • Whether these criteria have been met would be a matter of

Cl	Section/initiative	Submitter/issue	Response
			fact. • If these criteria have not been met, then the decision stage would not commence. **Comments** • The section, as drafted, is consistent with the Government's position in relation to this matter.
8	Section 161 Acceptance of submission	**No. 9 QMDC** The QMDC raised the same concerns as those outlined for clause 5 (amendment of section 51)	**Background** • Section 161(1)(d) relates to the period in which the administering authority must accept a submission. • A time period must be given to provide certainty for decision timeframes. • Community engagement and disclosure of information rights have not been eroded by this Bill. • The amendments in this Bill improve transparency and public notification requirements by requiring that information pertaining to public notification requirements be kept on the proponent's website. **Comments** • The clause, as drafted, is consistent with the Government's position in relation to this matter.

Cl	Section/initiative	Submitter/issue	Response
8	Section 201 Term of Environmental authority	**No. 7 Logan City Council** Regulators should be able to issue fully compliant ERA operators with environmental authorities for multiple years.	**Background** • Section 201 provides that an environmental authority continues indefinitely unless there is an end stated in and environmental authority or an action is taken to surrender, cancel or suspend the environmental authority. • The general practice is that no end date is included in an environmental authority unless the activity is proposed to undertaken only for a fixed period of time and the impact of the activity has been assessed as acceptable because of the period. • The current flexibility for local governments to set local fees for ERAs will be retained. Local governments can use this flexibility to provide incentives to fully compliant activities. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Division 6 Conditions	**No. 9 QMDC** QMDC request the opportunity to speak to these clauses at the Hearing if given an opportunity.	**Comments** QMDC have not raised an issue about this section for DERM to comment on.
8	Section 204 Conditions that must be imposed	**No. 7 Logan City Council** Section 204 requires that the administering authority place a condition	**Background** • The general policy intent is that the operator must comply with the eligibility criteria.

Cl	Section/initiative	Submitter/issue	Response
	for standard or variation applications	on specific environmental authority holders to take 'all reasonable steps'. This is very ambiguous and should state that operators must comply with eligibility criteria	• However, there are likely to be some eligibility criteria which an operator may not be able to comply with through no fault of their own – e.g. because of residential encroachment – and it is not reasonable to require strict adherence to the eligibility criteria in these circumstances. This is explained in full in the Explanatory Notes. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 253 Requirements for transfer application and Section 262 Requirements for surrender application	**No. 7 Logan City Council** There is no information regarding what happens if the requirements (s252 s253) for a transfer application are not met. It is recommended that something similar to s128 be added.	**Background** • The requirements for an application for a transfer or a surrender application are less complex than those for an application for an environmental authority under s125. • The process provided in s128 for an application that is not properly made reflects the added complexity of the requirements for an application for an environmental authority. **Comments** • The determination of whether an application for a transfer or surrender is properly made is straight forward and the application does not need to be assessed if it is not properly made. • As a result, administrative procedures are appropriate to deal with applications that are not properly made and a legislative process is not required. • The clauses, as drafted, are consistent with the

Cl	Section/initiative	Submitter/issue	Response
			Government's position in relation to this matter.
8	Section 253 Requirements for transfer application and Section 262 Requirements for surrender application	**No. 7 Logan City Council** After an environmental authority is transferred, the new operator is required to send the land owner/s a copy. This places a burden on the new operator and should instead be a requirement on the administering authority.	**Background** • This requirement only applies where the operator is not the owner of the land. • The requirement acts to ensure that land owners are aware of whether an operator on a site has a lawful right to carry out the activity. **Comments** • It is appropriate for the operator to provide the notice to owner of the land as this should form a normal part of the lessee/ lessor relationship. • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 311(2) Deciding application	**No. 7 Logan City Council** Local governments should be able to unilaterally change the environmental authority anniversary date for all ERAs in their local government area.	**Background** • Section 318(7) of the existing EP Act allows the administering authority to change the anniversary date by agreement with the holder. • The Bill has retained this provision in section 311(2) but has linked the change of date to an application from the holder. **Comments** • It is intended to preserve the current ability for the administering authority to vary the anniversary date by

Cl	Section/initiative	Submitter/issue	Response
			agreement. • Approval to amend the Bill will be sought to correct an oversight in the current drafting.
8	Section 318C(4)	**No. 7 Logan City Council** DERM needs to engage properly with local government on the requirements around making standard approvals for devolved activities. Whatever the process, local governments must not face an increased administrative burden without appropriate resourcing.	**Background** • The policy intent is that standard applications for prescribed ERAs will apply to both DERM administered ERAs, as well as devolved ERAs (i.e. local government administered ERAs). • Sections 318C and 318D outline the process for providing notice for, and making, the standard conditions which will be applied to environmental authorities for which the standard application process will apply. • Under section 318C of the Bill, a mandatory consultation period on proposed standard conditions is provided for. • This consultation period will allow all stakeholders, including local government, to make submissions to the chief executive regarding the proposed standard conditions, and this consultation will also apply to devolved ERAs. **Comments** • In addition to the consultation process outlined in the Bill, DERM has committed to working with the local government working group throughout the implementation process to ensure a smooth introduction of the new arrangements. • Local governments will experience considerable savings for standard application ERAs. These savings will be

Cl	Section/initiative	Submitter/issue	Response
			derived through reduced administration of low risk activities, reductions in assessment for development applications, reduced unnecessary planning referrals to local government, the removal of the need for registration certificates, and the maintenance of single approval documents.
8	Section 318E Codes of practice	**No. 7 Logan City Council** Section 318E should be amended so that all codes of practice must be made available on the DERM website because of the logistical difficulty created by local governments having this responsibility.	**Background** • The proposed section 318E provides that the Minister may approve codes of practice and that the administering authority must keep a copy of the code of practice on its website. • However, section 540A specifies that this register must be kept by the chief executive. • The policy intent is that this register is maintained by DERM, not local governments. **Comments** • DERM will seek approval to replace "administering authority" in section 318E with "chief executive".
8	Section 318H Grounds for refusing application for registration	**No. 2 Ipswich City Council** In section 318H there should be grounds for extending the assessment and decision timeframes where there are delays from other agencies in providing information around whether an operator should be registered	**Comments** • The experience in administration of the EP Act to date would indicate that very few operators would be likely to be refused registration under these provisions. • Consequently, providing an extension of time for a decision on whether a person is a suitable operator would be likely to result in unreasonable delays for the majority of applications

Cl	Section/initiative	Submitter/issue	Response
			• It is considered more efficient to use the proposed s318K to cancel or suspend a registration if information subsequently becomes available that a person is not a suitable operator than to extend the decision period for the application.
8	Section 318H Grounds for refusing application for registration (a)	**No. 2 Ipswich City Council** In relation to the suitable operator provisions, the applicant's environmental record should be defined.	**Background** • The consideration of an applicant's environmental record is currently provided for in the EP Act for a range of assessments including amendments to environmental authorities, financial assurances, and transfer applications. • The Bill amendments effectively move the requirements to assess a person's suitability as an operator from the application for a registration certificate, to the application for registration as a suitable operator. • Therefore, it is not a new concept and its use is not intended to be restricted to the grounds for refusing an application for registration for a suitable operator. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 318J When registration takes effect	**No. 2 Ipswich City Council** Due to the inflexibility of many information management systems, the date of commencement of registration for an activity should be kept on the environmental authority	**Background** • An applicant must be registered as a suitable operator at the time a decision is made on an application for an environmental authority, or the application must be refused. Consequently, the commencement date of the registration is immaterial as long as the person is registered prior to the the administering authority deciding

Cl	Section/initiative	Submitter/issue	Response
			to approve and issue the environmental authority. • The suitable operator register will be a single register administered by DERM. Where the administering authority for a decision is the local government (i.e. where the decision related to a devolved ERA), the local government must take steps to ensure that the person's details are included in the register. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter. • As there will be only one licensing system involved (i.e. DERM's), issues related to the different systems operated by different local governments will be avoided.
8	Section 318K Cancellation or suspension of registration	**No. 2 Ipswich City Council** **No. 7 Logan City Council** There should be greater clarity provided around what constitutes someone that is not a suitable operator.	**Background** • Under the current unamended *Environmental Protection Act 1994* there is a requirement to assess the suitability of an operator through the registration certificate application process. • This process will be retained through an application for registration as a suitable operator under the amendments in the Bill. • The administering authority 'may' refuse an application for registration as a suitable operator, based on a number of grounds. • These grounds include any suitability report obtained, or if there has been a 'disqualifying event' has occurred with

Cl	Section/initiative	Submitter/issue	Response
			relation to the applicant. • A 'disqualifying event' is an event prescribed under a regulation and this definition will provide further clarity for assessment of the suitability of an operator. • A finding on these grounds does not necessarily prohibit a person from being registered as a suitable operator, and therefore a strict definition of someone that is not a suitable operator is not necessary. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 318R Investigation of applicant suitability or disqualifying events	**No. 2 Ipswich City Council** Local governments should be able to investigate applicant suitability.	**Background** • The administering authority requires effective tools for investigating the suitability of an applicant. • Section 318R provides these tools by specifying the different means of investigating a person to determine their suitability. • Under section 514 of the EP Act, the Governor in Council may by regulation devolve, amongst other things, the administration and enforcement of environmental authorities to local governments. • Under the *Environmental Protection Regulation 2008*, local government are devolved responsibility for a range of matters. • In relation section 318R of the Bill, local governments are considered to be the administering authority, and can

Cl	Section/initiative	Submitter/issue	Response
			therefore investigate applicant suitability. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 318U	**No. 7 Logan City Council** In relation to section 318U it is necessary to include contractors that are acting on behalf of an administering authority to ensure appropriate levels of confidentiality.	**Background** • Section 318R(3) requires the commissioner of the police service to provide certain information to the administering authority if required. • This information is confidential and consequently, can only be disclosed in limited circumstances. • Consequently, it is inappropriate for contractors to be provided with this information if appropriate governance arrangements are not in place. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 318U(2) Confidentiality of suitability reports	**No. 2 Ipswich City Council** Section 318U(2) should be amended or reviewed because of the record keeping difficulties around the person not being able to disclose information. These difficulties arise because the person cannot disclose information which would impose significant record keeping issues.	**Background** • This section requires current or former public servants to keep suitability reports confidential and sets a maximum penalty of 100 penalty units for an offence against this provision. • This offence has not been changed from section 652 of the existing EP Act.

Cl	Section/initiative	Submitter/issue	Response
			Comments • This offence is required because section 318R(3) requires the commissioner of the police service to provide certain information to the administering authority if required. • This information is confidential and consequently, can only be disclosed in limited circumstances. • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
8	Section 318U(3)(a) Confidentiality of suitable reports	**No. 2 Ipswich City Council** In section 318U(3)a the term second person in this section is unclear and should be more clearly defined	**Comments** • The term 'second person' is used to define whose consent must be obtained in order to release the confidential information. • It is defined in subsection (1)(b). • Consequently, the term is legally clear in the circumstances.
8	Section 318V Destruction of suitability reports	**No. 2 Ipswich City Council** In section 318V the requirement to destroy suitability reports should be reconsidered because of the difficulty in destroying electronic records.	**Comments** • The term 'destroy' must be considered in context. The intent is that if the report has to be obtained electronically, then the data should be erased or deleted so that is does not remain a record for the purposes of the *Public Records Act 2002*.
9	Section 321 What is an environmental evaluation – 326 (1) Administering	**No. 7 Logan City Council** In relation to section 321 & 326 (1) there are several situations in which an environmental audit or environmental investigation could be issued. The	**Background** • Sections 322 and 323 provide for an audit to be undertaken to assess compliance with a requirement made by or under the EP Act. • Section 326B provides for an investigation to be required in

Cl	Section/initiative	Submitter/issue	Response
	authority may conduct environmental audit for resource activities	Greentape Bill presents an opportunity for the two types of environmental evaluations to be consolidated which would reduce the regulatory burden on Administering Authorities and industry.	relation to environmental harm that has or is likely to occur. **Comments** • It is appropriate for the two types of evaluations to be separate as the grounds for, and the purposes of, the audits and investigations are distinctly different. • The separation of the two types of evaluation does not result in any additional burden for industry.
9	Section 326G(2)	**No. 7 Logan City Council** Section 326G(2) should be amended to so that the administering authority can require a report to be amended where there are non-deliberate errors by an environmental auditor.	**Background** • The Bill sets up a framework for auditors which is designed to assure the quality of the work provided by auditors. This includes provisions for appointment, suspension and cancellation, and offences in relation to auditors. • This framework has been included to ensure both the person engaging the auditor and the administering authority can be confident in the quality of work submitted and that the audit report provided will be accepted. **Comments** • As the Bill contains a robust framework to ensure the quality of the audit report, it is not considered necessary to also have provisions requiring amendment of the report .
9	Section 334A	**No. 2 Ipswich City Council** **No. 7 Logan City Council** More detail around section 334A is required including the maximum time period the person/public authority has to	**Background** • The transitional environmental program (TEP) is a tool used to transition an activity towards compliance with an environmental standard (e.g. compliance with the conditions of an environmental authority).

Cl	Section/initiative	Submitter/issue	Response
		submit the information, that the process lapses if the person/public authority fails to provide the required information during that time period, etc	• Until the TEP is approved, the operator must comply with the environmental standard or will be in breach of the legislation. • Consequently, there is no need for lapsing provisions as it is in the operator's best interests to provide the information quickly so that the TEP can be approved. • The maximum time period for the provision of the information must be included in the notice and would be a reasonable time depending on the information required and the nature of the TEP. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
12	**Clause 12** Amendment of section 330 (What is a transitional environmental program) **Clause 13** Amendment of section 331 (Content of program)	**No. 7 Logan City Council** Amend section 330 and 331 so that a transitional environmental program (TEP) can be used to transition to a standard approval	**Background** • In section 122 of the Bill, an activity that requires an environmental authority may apply for the authority through a standard, variation or site specific application. • A condition of an environmental authority includes standard conditions for a standard application. **Comments** • A TEP can be used to detail the transition of the activity to comply with a condition of an environmental authority. • As a condition of an environmental authority can include standard conditions, a TEP can be used to transition to a standard approval.

Cl	Section/initiative	Submitter/issue	Response
35	Amendment of s435A (Offence to contravene standard environmental conditions)	**No. 9 QMDC** ▪ QMDC recommend that the penalty for section 435A is increased.	**Background** • Section 435A relates only to activities that are authorised under a prospecting permit. • Breaching a level 2 environmental authority is the comparative offence provision in the current legislation for a breach of a prescribed condition related to a prospecting permit. • The penalties in section 435A are the same as the penalty for that offence.in the current legislation. **Comments** • The clause, as drafted, is consistent with the Government's position in relation to this matter.
36	Amendment of section 452 (Entry of place – general)	**No. 7 Logan City Council** Section 452 should be amended to include powers of entry when the activity is being conducted, not just when it is open.	**Background** • Section 452 currently provides for powers of entry while an activity is being carried out in relation to: a place to which an environmental authority relates, an agricultural ERA and at a place to which prescribed condition for a mining activity that is authorised under a prosecting permit relates. • While subsection 451(1)(f) provides powers of entry for an industry only while the place is open for business or is otherwise open for entry, there are other powers of entry under the Act that can be used. For example, section 453 provides power of entry to land if an authorised person believes on reasonable grounds that unlawful harm has been caused by the release of a contaminant into the

Cl	Section/initiative	Submitter/issue	Response
			environment. **Comments** • The amendments in the Bill effectively maintain the status quo in relation to the powers of entry under this section.
40	Amendment of s520 (Dissatisfied person)	**No. 9 QMDC** QMDC recommended that the definition of a "dissatisfied person" be expanded to include a broad inclusion of persons in the community including neighbours to the land that forms part of the application.	**Background** • Section 520 defines 'dissatisfied person' who is a person who can bring an appeal against an original decision. • Subsection (1) defines who the dissatisfied person may be in terms of the applicant, proponent etc. • Subsection (2) defines who the dissatisfied person may be in terms of the submitter. This section would include persons in the community including neighbours to the land that forms part of the application. **Comments** • The clause, as drafted, is consistent with the Government's position in relation to this matter.
41	Amendment of s521 (Procedure for review)	**No. 9 QMDC** The QMDC raised the same concerns as those outlined for clause 5 (amendment of section 51)	**Background** • The development of a code of contact for community engagement and disclosure of information was outside of the scope of the Greentape Reduction project. **Comments** • The clause, as drafted, is consistent with the Government's position in relation to this matter.

Cl	Section/initiative	Submitter/issue	Response
45	Amendment of s531 (Who may appeal)	**No. 9 QMDC** QMDC requested the opportunity to speak to this clause at the Hearing if given the opportunity.	**Comments** • QMDC have not raised an issue about this section for DERM to comment on.
47	Section 540(1)(c) Registers to be kept by administering authority	**No. 7 Logan City Council** It is recommended that there is a definition of 'monitoring programs' to support section 540(1)(c)	**Background** • Different requirements for monitoring programs are provided for throughout the EP Act. **Comments** • Due to the different scope of monitoring programs in different sections of the EP Act, any definition of 'monitoring program' would have to be so broad it would not add to the common meaning of the term.
47	Section 540 Registers to be kept by admin auth	**No. 6 ACLA** ACLCA would like to see suitably qualified persons and auditors kept on a publicly available register.	**Background** • Auditors are kept on a register – see section 540A(1)(f) in the Bill. • Suitably qualified persons are not appointed by the administering authority, so the administering authority cannot maintain a register of them. A register of the prescribed organisations for section 564 of the Bill is currently in the EP Reg and this list will be maintained under the new legislation. **Comments** • The clauses, as drafted, are consistent with the

Cl	Section/initiative	Submitter/issue	Response
			Government's position in relation to this matter.
51	Replacement of chapter 12, part 1 (Approval of codes of practice and standard environmental conditions)	**No. 9 QMDC** QMDC recommended that a public consultation process be allowed to provide input to guidelines for the administration of the Act.	**Background** • Chapter 12, part 1 (sections 548(2), 549(2)) of the Bill provide for consultation with appropriate persons. • This consultation can be public consultation where appropriate. **Comments** • . The clauses, as drafted, are consistent with the Government's position in relation to this matter.
58	Part 3 Suitably qualified persons, Section 564, and Division 3 Performance of auditor's functions, Section 574C-M	**No. 6 ACLCA** ACLCA wish to seek clarification on the operational policy in defining the levels of competency of both suitably qualified persons and auditors.	**Background** • The levels of competency for suitably qualified persons are set in administrative documents (e.g. guidelines) and not through the legislation. • The levels of competency for auditors will be determined by the statutory guideline for the appointment of auditors. • The qualifications and experience required will vary depending on the function being performed. • These documents will be available on the DERM website prior to commencement of the legislation. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
58	Insertion of new ch12, parts 3-3a	**No. 9 QMDC** QMDC recommends the implementation	**Background** • The background for these provisions is set out in the

Cl	Section/initiative	Submitter/issue	Response
		of regulations which build the capacity to deliver further important knowledge and technological advances to Queensland and its regional communities. This will ensure the Act and its regulations will advance the Act's effectiveness and efficiency. It is recommended that the relevant regulations reflect not only suitably qualified persons including auditors whom are skilled in current best practices but are also persons that are well-informed by localised and regionalised knowledge and research.	response to ACLCA's submission (above). **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
60	Section 694 Definition for div 5 – Section 695 Application to convert conditions of transitional authority to standard conditions	**No. 7 Logan City Council** Section 694 defines 'transitional authority' and includes development permits for prescribed ERAs devolved to local government that exist before the commencement of the Greentape Reduction provisions. s.695 states that the holder of a transitional authority may apply to convert the conditions to the standard conditions for the relevant activity. To do this the ERA operator would have to pay a fee. Consequently most ERA operators will not apply to convert the conditions. This will result in	**Background** • Any change to the conditions of an environmental authority has the potential to change the existing rights and obligations of the holder. • The Bill seeks to preserve the certainty in those rights and obligations by providing for the transition to the standard conditions to be on the basis of an application from the holder. • Any fee for this application is set through the EP Regulation. **Comments** • DERM notes the concern that the payment of a fee with the application to transition may act as a barrier to some

Cl	Section/initiative	Submitter/issue	Response
		varying minimum standards existing within each industry. Current development permits which become an Environmental Authority under s.677 will remain in effect for the lifetime of the activity occurring on the site. Therefore multiple standards could exist for decades. This reduces some of the regulatory efficiency the Greentape Reforms intended to achieve.	holders applying. • Consideration will be given during the preparation of amendments to the EP Regulation to providing for no fee or a low fee during a transitional period after the approval of new standard conditions.
60	Section 677 Continuing effect of existing development permit for chapter 4 activity as environmental authority	**No. 7 Logan City Council** In accordance with section 316 of the current EP Act, local government has to issue an annual notice (i.e. renewal) prior to the anniversary day for the registration certificate. The proposed requirements in section 677 relate to the anniversary day of the development permit. This date is often different to the anniversary of the registration certificate. To implement the proposed provision would require each Administering Authority of prescribed ERAs to go through every relevant development permit and amend the anniversary day of each ERA. In many cases this will result in changed periods covered by the fee which is unfair to industry and an unbeneficial	**Comments** • DERM accepts that the anniversary day for the environmental authority for an existing Chapter 4 activity should be the anniversary day for the associated registration certificate. • DERM will seek approval to make this amendment.

Cl	Section/initiative	Submitter/issue	Response
		administrative burden on local government.	
60	Section 703 Plan of operations for environmental authority for petroleum activity that relates to petroleum lease	**No. 9 QMDC** QMDC is concerned that clause 703(4) will remove an accountability mechanism essential for the protection of the environment and public confidence in the Act's capacity, and recommends that clause 703(4) be removed from the Bill.	**Background** • Section 703 is a transitional provision that provides the transitional arrangements for existing environmental authorities for petroleum leases that either: o Currently contain a condition that requires an operational plan; or o Do not have a condition that requires an operational plan. • The new section 287 has been amended from the old section 233 so that the requirement for a plan of operations applies to environmental authorities for petroleum leases, rather than just mining leases. • The transitional provision provides 6 months for the plan of operations to be lodged for environmental authorities for petroleum leases. • Subsection (4) gives the administering authority the power to amend the environmental authority to remove conditions which are duplicated by the plan of operations requirement. • This will provide certainty to the environmental authority holder regarding their obligations and remove any potential for inconsistencies between the environmental authority and plan of operations. • This is explained in detail in the Explanatory Notes to section 703. **Comments**

Cl	Section/initiative	Submitter/issue	Response
			• The clauses, as drafted, are consistent with the Government's position in relation to this matter.
62	Amendment of sch 4 (Dictionary)	**No. 9 QMDC** QMDC recommended that definitions are added to the dictionary to include other types of dams, for example, exploration, appraisal, fraccing, oily water ponds etc.	**Background** • The dictionary defines CSG evaporation dam as an impoundment, enclosure or structure designed to be used to hold CSG water for evaporation. • This definition must be read in conjunction with the definition of CSG water which is underground water brought to the surface of the earth or moved underground in connection with exploring for or producing coal seam gas. • These definitions are consistent with the existing legislation and include water developed during both exploration and production phases. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
64	Amendment of section 10 (Definitions for terms used in *development*)	**No. 6 ACLCA** The ACLCA asks whether the current rate of 10% change in material change use is still considered a trigger for a change in MCU and if the operational policy to enact the change will be published on the DERM website.	**Background** • The existing legislation does not prescribe that a 10% change in the activity triggers a material change of use. • The relevant part of the current definition of 'material change of use' in the *Sustainable Planning Act 2009* states: ***material change of use***, of premises, means— (a) generally— ... (iii) a material increase in the intensity or scale of the

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			use of the premises. • This aspect of the definition is not being changed by this Bill. **Comments** • The clauses, as drafted, are consistent with the Government's position in relation to this matter.
65	Amendment of s261 (When application is a properly made application)	**No. 9 QMDC** QMDC request the opportunity to speak to this clause at the Hearing if given an opportunity.	**Comments** • QMDC have not raised an issue about this section for DERM to comment on.
67	Amendment of s321 (Applicant may stop decision-making period to request chief executive's assistance)	**No. 9 QMDC** QMDC is concerned that decisions may be made behind closed doors that require public and community involvement	**Background** • The amendment of section 321 is required to accommodate the separation of the development permit and the environmental authority. This section allows for a process to resolve conflicts between an environmental authority and concurrence agency's response. **Comments** • The amendment will maintain the current position and is consistent with the Government's position in relation to this matter.
71	Amendment of s399 (Who may carry out compliance assessment)	**No. 9 QMDC** The QMDC request that a regulation is implemented that requires financial payments from applicants to build the capacity and qualifications of public	**Background** • Section 399 of the SP Act is amended to include 'a nominated entity of a public sector entity'. This is so that a nominated entity of a State government department can

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		servants and other persons to assess development, work or documents that fall within the ambit of the Bill.	carry out compliance assessment **Comment** • This recommendation is outside the scope of the Bill.

Other comments

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No. 3 QLS	The QLS strongly supports: (a) The inclusion of a formal information stage with timeframes, for resource activity applications as well as prescribed ERAs; and (b) The proposed deletion of EM Plan requirements. However, similar to the sampled sections, there are drafting errors and unintended consequences in these sections too. (Subsection 3, p.4)	**Comments** • DERM thanks QLS for their comments and requests that QLS provides any additional feedback regarding any further 'drafting errors' and unintended consequences of the Bill.
No. 5 LGAQ; No. 2 Ipswich City Council & No. 7 Logan City Council	The LGAQ expresses its concerns that limited consideration has been given to the administrative burden for local government in making the proposed changes in the Bill. LGAQ are also concerned about the potential reduction in opportunities for cost recovery for local government in managing environmental protection. Local government also gained the added impact of managing commercial nuisance in 2009 with no option to cost recover for these activities so to consider the changes now, as proposed in the Bill, is of concern to the Association. Ipswich and Logan City Councils have made submissions to the committee with extensive comments on the Bill itself in relation to operational issues and the Association supports these submissions. (Subsection 5, p.1)	**Comment** • The costs associated with implementing the required changes will be minimised by a state-wide training and implementation program lead by DERM. This will include the provision of state-funded training for local government officers, support materials and publications, training material and ongoing guidance to ensure straightforward and effective implementation.
No. 6 ACLCA	The ACLCA wishes to be advised of all operational policies from the Queensland Government Department of Environment and Resource Management (DERM) to be enacted by the Bill and if these policies will be published on the DERM website as stated in section 318(3) "The administering authority must keep a copy of a code of practice made under subsection 1." (Subsection 6, p.1)	**Background** • Operational policies are not codes of practice, they are administrative policies which support and guide regulators in making decisions under the legislation. • As part of the Information Initiative of the Greentape Reduction project, all

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		operational policies and codes of practice will be made available on the website. • The Greentape Reduction e-newsletter is designed to keep stakeholders updated on all aspects of the Greentape project (including non-legislative aspects). This e-newsletter can be subscribed to via DERM's website. **Comments** • DERM thanks ACLCA for its comments and encourages ACLCA and its members to subscribe to the e-newsletter.
	• ACLCA would like to see in the Act a section on Performance of SQP's Function, in a similar manner as Auditors. (Subsection 6, p.2)	• The levels of competency for suitably qualified persons will be set in administrative documents (e.g. guidelines) and not through the legislation. • Suitably qualified persons will not be approved as documents prepared by those persons will still be assessed by the administering authority. • The Greentape Reduction Bill provides a clear framework for using the

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		expertise of suitably qualified persons and environmental auditors in decision making under the EP Act. Initially, this framework will only be used for those areas that currently use third parties under the EP Act. • Currently, the third party certifier framework (i.e. the use of auditors) has been limited to where they are already used (i.e. for contaminated land and audits for resources activities).
	Currently the legislation for third party certification only applies to site investigations and not ERA applications. Given the streamlining (relaxing) of some prescribed ERA applications (standard or site specific), ACLCA would like to suggest that ERA applications of activities on schedule 2 notifiable activities are signed off by a SQP and/or an auditor. (Subsection 6, p.2)	**Background** • "Notifiable activities" are activities which DERM must be informed of in order to record the particulars of the land in the environmental management register. • While there is some cross-over between notifiable activities and ERAs, these are two different frameworks of regulation. • The Bill provides a clear framework for using the expertise of suitably qualified persons and environmental auditors in decision making under the EP Act. Initially, this framework will only be

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		used for those areas that currently use third parties under the EP Act. • Where there is a demonstrated need, the use of the third-party certification framework may be expanded upon consultation with targeted stakeholders for the area of interest. **Comments** • ACLCA's suggestion is noted and will be considered during any expansion of the suitably qualified persons and auditor framework.
	ACLA suggests that ERA applications for the medium activities require a sign off by an SQP and high risk activities also require third party certification by auditors, as well as a sign off by SQPs. (Subsection 6, p.2)	• The Bill provides a clear framework for using the expertise of suitably qualified persons and environmental auditors in decision making under the EP Act. Initially, this framework will only be used for those areas that currently use third parties under the EP Act. • Where there is a demonstrated need, the use of the third-party certification framework may be expanded upon consultation with targeted stakeholders for the area of interest. **Comments**

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		• ACLCA's suggestion is noted and will be considered during any expansion of the suitably qualified persons and auditor framework.
	In the development of operational policies for the Act, ACLCA seeks clarification on the following: • "SQPs will not need to be approved." How will this work? • That third party certifiers will work under a code of conduct. Who is to develop this code? • The bill is specific to the state of QLD and not uniform with, or complimentary to, Commonwealth or another state. How does this work with NEPM etc? • Reference guidelines. Are any of these planned for contaminated land operations and if so when? Are the draft 1998 guidelines to be revised? • SQP – Are the "appropriate qualifications and experience" to be defined? Is "appropriate organisation" to be defined? What are the changes to the regulatory function that can be performed by a SQP? • Statutory Declarations – have the SQP stat decs formats changed? • Guidelines for type of auditor and criteria – when will these be issued and in what format? • Term of approval. It is assumed there will now be a panel of auditors for certain functions. It is assumed that this panel will run for a period of time, how long will this be? It is assumed that the current appointment of TPRs on a site specific basis will cease.	• Operational policies are administrative policies which support and guide regulators in making decisions under the legislation • DERM has contacted the ACLCA and offered to meet with them to discuss their concerns about the administrative aspects of the Bill.

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	Will the current panel of TPRs automatically qualify for the panel of auditors or will they need to reapply? • Conditions of approval for an auditor – is it known what these may be? • Code of practice – are any codes planned to be developed by DERM in the near future and if so when? • Clauses relating to "business days" – is this from receipt by PALM and not DERM? If by DERM, how many days are allowed for internal processing and how will the applicant know when the time period commences? • How is "best practice environmental management" to be defined? (Subsection 6, p.3)	
No. 8 CCAA	CCAA strongly supports the Bill. However, we also strongly urge that sufficient resources and planning is devoted to the implementation of the Bill, and to be complemented by other improvements in DERM's business processes and customer interfaces so that there is a greater "one-stop-shop" approach in relation to DERM-business interactions. CCAA strongly urge that there is continued close involvement and engagement of DERM regional staff and local government authorities (as well as industry) in the further development and roll-out of the reforms. This is vital in ensuring that the reforms are practically designed, properly communicated and have broad stakeholder support. CCAA also urge that close attention be given to the structure and design of reform guidance material to ensure license holders can clearly understand the implications of the proposed changes and can properly plan for any changes. (Subsection 8, p. 2)	Noted **Comments** • As part of the implementation process for the Bill, DERM will seek the continuing involvement of CCAA in the consultation process.

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	In relation to the introduction of an amalgamated corporate authority, CCAA believes that the initiative is positive in relation to the ability to make a single annual return in relation to multiple sites, and the potential to significantly reduce the overall number of licences and registrations. (Subsection 8, p. 2)	Noted
	CCAA strongly endorses the initiative to streamline and clarify information requirements, including the provision of clear guidance on the information required and a reduction in the amount of information to be assessed. CCAA members note that clear information requests would be especially beneficial where the approval process has been delayed. (Subsection 8, p. 2)	Noted
	CCAA strongly support the introduction of a licensing model that clearly reflects the environmental risk of a particular Environmentally Relevant Activity (ERA), and are very supportive of increased efficiency for the operational approvals process. (Subsection 8, p. 1)	Noted
	CCAA agree with the flexibility of being able to amend operational approvals without the need to change the development approval, and the ability for an operator licence to cover multiple sites. (Subsection 8, p. 1)	Noted
	With regards to the initiative to amend operational approvals without having to amend development approvals, CCAA members are supportive of this change, provided there are effective and efficient ways to amend any conditions attached to the approval. (Subsection 8, p. 1)	Noted
	CCAA is supportive of a system which will reduce the number of annual returns and payments. With regards to the transfer of an operator license, in general, industry supports a licence which is attached to the operator rather than the land on which the business is based. The	Noted

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	industry believes that this initiative could provide greater efficiency in transferring licences, and takes into account businesses with complex and varying ownership structures. However, any changes should be accompanied by clear guidance and high levels of support and resources for business to transfer current licenses to the new arrangements, including any clear articulation of any transitional arrangements. There also must be a clear understanding of what standard conditions will apply to operator licence. (Subsection 8, p. 1)	
	In relation to use of third party certifiers to assess development applications, CCAA in general supports the use of independent and suitability qualified third parties in appropriate situations, provided there are suitable processes for the determination of certifiers. This appears to be addressed in the Bill. However, potentially, third party certifiers may result in additional costs for industry, especially the costs of retaining third party consultants where a development approval is delayed. Additional issues associated with use of third party certifiers include a possible loss of corporate knowledge at DERM if third party certifiers undertake the majority of assessments and increased conditions being imposed due to third party certifier liability responsibilities. CCAA members also note that reduced application costs should apply where third party certifiers are engaged as DERM is not providing resources to undertake the assessment. (Subsection 8, p. 2)	Noted **Comments** • Currently, the third party certifier framework (i.e. the use of auditors) has been limited to where they are already used (i.e. for contaminated land and audits for resources activities). • These policy issues will need to be considered further each time DERM considers the expansion of the framework to additional types of auditors.
	In relation to the prioritisation of information required with the application. CCAA is very supportive of technical and supporting information (which is not critical to the application decision) being supplied after approval has been granted. CCAA members note that	Noted

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	such prioritisation of information would assist in reducing application processing delays and would like to see this initiative also implemented by local governments. (Subsection 8, p. 2)	
No. 1 QRC	QRC is supportive of the initiatives of the Greentape Reduction Project and largely how they are represented in the Greentape Bill. (Subsection 1, p.1)	Noted
	QRC is supportive of removing environmental management plans, acknowledging their role over time has become meaningless. (Subsection 1, p.1)	Noted
	QRC is equally encouraged by the inclusion of an 'information stage' in the application process, consistent with resources legislation, recognising the potential to cut application and environmental authority development process timeframes. (Subsection 1, p.1)	Noted
	In regards to the amendment to remove the duplicative notification process for voluntary Environmental Impact Statement's (EIS), QRC requests a similar streamlined notification process also be considered for non-voluntary EIS. (Subsection 1, p.1)	**Background** • Section 150 of the Bill (which is contained in Part 4 – Notification Stage) removes the duplication of notification requirements when the EIS process was completed before the application was made (amongst other criteria). • This essentially means that applicants who have completed a voluntary EIS are not subject to duplicate notification requirements. • Section 151 of the Bill states that the applicant can start the notification

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		stage as soon as the application stage ends for the application. Consequently, where an applicant is required to do an EIS under the Information Stage, the applicant can choose to align the notification requirements for the EIS and the environmental authority to remove duplication of notification. • There is only a small percentage of applications which are subject to the Notification Stage which would also be required to do an EIS under the Information Stage. **Comment** • Since the EIS timeframes and the Notification Stage timeframes are essentially applicant driven, the applicant can chose to remove the duplication. • Amendment of section 150 to include an EIS required during the Information Stage would require amendment of these timeframes and remove much of the flexibility for completing the Notification Stage for the majority of applicants.

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No. 9 QMDC	QMDC argues that on a local and regional level there is a need for proponents of industry and business requiring licenses or EAs to be provided with a clear and consistent framework for best practice and policy decision-making, risk management and responses to the specific and cumulative impacts of their industry or business on the QMDB's natural resources. QMDC seeks a robust legislative and regulatory framework that is compatible with the protective mechanisms afforded by environmental law and regional plans, policies and strategies. **Equity and balancing community interests** QMDC notes the extensive number of licenses and EAs regulating industry, businesses and individuals in Queensland (183 as per DERM's website November 2011). The sheer volume and therefore industrial or business interest raises concern regarding equity issues and the balancing of community interests. QMDC supports the need to have improved information and advice on regulatory requirements. QMDC would add that included in this information should be data and information documenting the key natural resource assets and values of each region and targets for their management. QMDC supports this information being made available on key government websites. **Quality of information and scientific certainty** QMDC supports the need to align legislation and administrative processes. QMDC has experienced how anomalies in water legislation, for example, create certain injustices especially when the mining and	Noted

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	energy industry sector have inherent rights under the Petroleum and Gas Act to water and the farming sector are subject to water resource planning and permits. QMDC also supports DERM's concern regarding the quality of information provided by proponents being sometimes inadequate to make informed decisions. As a submitter to a number of EA applications by CSG companies, QMDC has found that decisions are often delayed because proponents are not forthcoming with essential data. This leads to distrust in the company's integrity. A wider concern is that the regulator is being put in a position to make decisions when there is a clear lack of scientific evidence or certainty. This may lead to impacts on natural resources, the environment or community interests that should be avoided in the first place.	