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AGRICULTURE, RESOURCES AND ENVIRONMENT COMMITTEE  
REPORT NO. 3

ENVIRONMENTAL PROTECTION (GREENTAPE REDUCTION)  
AND OTHER LEGISLATION AMENDMENT BILL 2012

RESPONSE FROM MINISTER FOR ENVIRONMENT AND HERITAGE PROTECTION

Response in order of recommendations/points for clarification

<b>Committee comment recommendation/ point for clarification</b>	<b>Response</b>
<p><b>Recommendation 1—</b> The committee recommends that the Environmental Protection (Greentape Reduction) and Other Legislation Bill 2012 be passed</p>	<p>No response required</p>
<p><b>Point for clarification—</b> The committee seeks the Minister's clarification as to what action will be taken to ensure the continued suitability of operators is monitored at appropriate intervals, and that mechanisms will be put in place for the monitoring of environmental offences by operators.</p>	<p>The Government will <b>amend</b> clause 8 to insert a new section which allows the administering authority to remove an operator from the register if the operator has not held an environmental authority for the preceding 5 years.</p> <p>In addition, my department has administrative procedures in place to obtain information on prosecutions for environmental offences in other jurisdictions. My department will engage in discussions with the Local Government Association of Queensland to extend these procedures to local government.</p>
<p><b>Recommendation 2—</b> The committee recommends that proposed sections 154 and 155 in Clause 8 be amended to ensure that business days between and including 20 December in one year and 5 January in the following year are excluded from the notification period for submissions. The purpose of this recommended amendment is to ensure that individuals and community groups are afforded reasonable opportunities to adequately respond to applications for large mining and other resource projects.</p>	<p>The Government will <b>amend</b> the definition of 'business days' in the Dictionary to the <i>Environmental Protection Act 1994</i> to exclude a business day between 20 December and 5 January in the following year. This will exclude that period from the submission period for section 155.</p> <p>Section 154 relates the submission period back to section 252A of the <i>Mineral Resources Act 1989</i>. Unlike other resource activities, the public notice requirements for mining leases apply to all sizes of operation. Details of the largest operations are published in advance of the notice requirements under the section 252A because they are required to complete the Environmental Impact Statement process. Consequently, changing the legislation to exclude the business days between 20 December and 5 January would have the biggest impact on the small to medium sized mines who are the least likely to attract third party submissions. Therefore, I propose to meet the intent of this recommendation through the administrative guideline discussed below, so that where the submission period is</p>

	<p>extended to 30 business days, the timeframe also takes account of the Christmas break.</p> <p>This is consistent with the definition of 'business days' in section 39 of the <i>Environmental Protection Act 1994</i> for Environmental Impact Statements.</p>
<p><b>Points for clarification—</b></p> <p>The committee invites the Minister to provide advice as to the adequacy of the 20 business day notification period for individuals and community groups to respond to environmental applications for large mining and resource projects, and whether he has discretion to require a longer period.</p>	<p>The 20 business day period is adequate for most environmental authority applications and this period can be extended by either the mining registrar under the <i>Mineral Resources Act 1989</i> (for mining activities) or by the chief executive of my department (for other resources activities).</p> <p>My department, in conjunction with the Department of Natural Resources and Mines, is developing a guideline for the mining registrar or the delegate of the chief executive to use their discretion to extend the submission period to 30 business days for large mining or petroleum operations which have not already undergone an environmental impact statement. I will ensure that my department consults closely with the Queensland Resources Council, the Australian Petroleum Production and Exploration Association, and the Environmental Defender's Officer in developing this guideline.</p>
<p><b>Recommendation 3—</b></p> <p>The committee recommends that the Minister consider requiring his department to work with other departments to promote the use of readily understood, standardised terms in legislation across government.</p>	<p>The Government <b>supports</b> this recommendation but notes that this function is already undertaken by the Office of the Queensland Parliamentary Counsel.</p>
<p><b>Recommendation 4—</b></p> <p>For the information of the House, the committee recommends that the Minister advise when his department will have completed calculating the methodology for residual risk payments in section 318K to 318ZN, and whether there is any outstanding risk to</p>	<p>There are two ways for the department to manage the risk of a failure by the operator to rehabilitate the site after carrying out environmentally relevant activities: a financial assurance, and a residual risk payment. The financial assurance is required to be paid before an operator starts carrying out the activity and the department has published guidelines to assist operators to calculate their financial assurance liability for the life of the project. The residual risk component</p>

<p>the State by not having this calculation completed.</p>	<p>only applies if the operator has made an application to surrender their environmental authority and a residual risk assessment shows that the site has not been rehabilitated to an acceptable level. The residual risk may be a useful tool to cater for potential unforeseen or gradual events (e.g. physical dam failures, seepage etc).</p> <p>My department advises me that consultation on the preferred methodology for calculation of a residual risks payment is well underway and that a discussion paper on the preferred approach is due to be delivered by a consultant by the end of June 2012. Once the preferred methodology has been finalised, my department will then work with industry stakeholders (including the Queensland Resources Council and the Australian Petroleum Production and Exploration Association) to develop a calculation tool which is due for completion by the commencement of this Bill in March 2013. I will advise the committee when the tool is complete.</p> <p>The types of risks which must be considered are outlined in the definition of 'residual risk' in the Dictionary to the <i>Environmental Protection Act 1994</i>. The department still has the discretion to refuse a surrender application if the site has not been appropriately rehabilitated to an acceptable level of risk. Consequently, there is no outstanding risk to the State in not having a preferred methodology or calculation tool completed, as the risk may still be quantified on a case-by-case basis.</p>
<p><b>Recommendation 5—</b> The committee recommends that the Committee of the Legislative Assembly consider options to ensure that the Parliament, and its committees in their examination of Bills, are duly informed of methodologies for the calculation of fees and payments provided for in Bills, at the time these Bills are presented in the House.</p>	<p>I have written to the Chair of the Committee of the Legislative Assembly advising her of this recommendation.</p>

<p><b>Point for clarification—</b> The committee seeks clarification from the Minister if it is anticipated that the Bill will shift costs for administration of environmental licensing onto local governments.</p>	<p>This Bill will <b>not</b> shift costs for administration of environmental licensing onto local governments. Both local governments and their regulated industries will benefit from the proportionate licensing framework and from the better guidance material which forms part of the Greentape Reduction project.</p> <p>I note that the example given by the Local Government Association of Queensland during the public hearing related to possible future regulatory reforms involving the removal or review of environmentally relevant activities which are listed in the <i>Environmental Protection Regulation 2008</i>. A full impact assessment will be done for this proposal, which takes account of any evidence of impacts on local governments, as well as on business, before any further reforms are progressed.</p>
<p><b>Recommendation 6—</b> The committee recommends that the Minister has further discussions between his department, the Local Government Association of Queensland and local governments to ensure a smooth transition in relation to council budgets for 2012-13 budgets due to the Bill's commencement date being 31 March 2013 which is not in alignment with current council budgets.</p>	<p>The department will continue to consult closely with the Local Government Association of Queensland and local governments to ensure a smooth transition.</p>
<p><b>Point for clarification—</b> The committee seeks the Minister's clarification that the Bill will be extensively reviewed for drafting errors, unintended drafting consequences, ambiguity and typographical errors and that such errors, consequences and ambiguity will be amended. Plain English only is required.</p>	<p>The government will <b>amend</b> the Bill where amendments are needed to avoid possible unintended consequences or provide clarity in some of the provisions. In addition, my department asked the Office of the Queensland Parliamentary Counsel to repeat its drafting and editorial review of the Bill.</p> <p>The 'drafting errors' raised by the Queensland Law Society are not considered by the department or the Office of the Queensland Parliamentary Counsel to be errors, but rather differences of opinion in how legislation should be drafted. Since the early 1990s, the Office of the Queensland Parliamentary Counsel has had a policy to draft in Plain English.</p>

**Recommendation 7—**

The committee recommends that the Committee of the Legislative Assembly consider whether the provisions in Standing Orders and the Sessional Orders should be amended to ensure that Members are afforded fair opportunities to debate the provisions contained in large multi-part clauses in Bills.

I have written to the Chair of the Committee of the Legislative Assembly advising her of this recommendation.