

Consultation paper

**A review of statutory protections for
wastewater treatment plants under the
*Environmental Protection Act 1994***

July 2026

Prepared by: Department of the Environment, Tourism Science and Innovation.

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July 2026

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1 Have your say

Stakeholder feedback is critical to this review. Please provide your responses to the questions outlined in Section 7 of this paper or any additional comments you may have. Submissions can be emailed to EPAct.Policy@detsi.qld.gov.au. Consultation closes **5pm Friday 28 August 2026**.

When commenting on specific items, please refer to the relevant heading number (e.g., Section 3.1) and section title or relevant question number. After consultation closes, the department will review all feedback to prepare a final report for government consideration.

Confidentiality

In the interest of transparency and to promote informed discussion, the department would prefer submissions to be made publicly available wherever this is reasonable. If confidentiality is preferable, this should be clearly noted on the front page of the submission.

While the department will endeavour to identify and protect material claimed as confidential, exempt information and information of which the disclosure would be contrary to the public interest (within the meaning of the *Right to Information Act 2009*), it cannot guarantee that submissions will not be made publicly available. There is a possibility that the department may be required to reveal confidential information as a result of a right to information request.

2 Introduction

In November 2024, the Queensland Government committed to reviewing statutory amendments for wastewater treatment plants (WWTPs).

In 2024, the *Environmental Protection Act 1994* (EP Act) was amended to insert section 6A following an Independent Review into the adequacy of the EP Act's powers and penalties. This section outlines key principles of environmental protection, including the polluter pays principle, which ensures those responsible for generating pollution or waste, bear the costs of its management. The inclusion of section 6A aimed to emphasise these principles in the administration of the EP Act, without introducing new concepts or imposing additional obligations on polluters or wastewater treatment plant operators.

This review aims to address concerns raised by local governments, industry stakeholders, and WWTP operators regarding the application of the polluter pays principle under the EP Act.

2.1 Objectives of the Review

The Department of the Environment, Tourism, Science and Innovation (the department) is conducting this review to:

1. clarify the policy intent and application of the polluter pays principle to ensure it is applied fairly and consistently to the wastewater treatment industry
2. assess whether existing legislative settings provide sufficient certainty and clarity for providers of critical public infrastructure, including local governments and WWTP operators, particularly in the context of wastewater treatment activities under the EP Act

3. identify whether legislative amendments are required to ensure authorised WWTPs are not unintentionally considered polluters when managing contaminants within the waste streams.

2.2 Purpose of this consultation paper

This consultation paper seeks stakeholder feedback on:

- the clarity of the intent and application of the polluter pays principle and current statutory settings, particularly for WWTP operators
- the adequacy and usefulness of available guidance related to the polluter pays principle
- whether any potential legislative or policy changes are required to address stakeholder concerns.

Feedback will inform a final report that summarises the review findings and provides recommendations for legislative amendments for government consideration.

3 Background

WWTPs are critical infrastructure to ensure the safe and reliable management of sewage. Operated by registered service providers such as local governments or utilities, these facilities collect, treat, and dispose of wastewater generated from domestic, commercial and industrial activities. The treatment process is designed to safeguard public health and minimise environmental impacts by removing contaminants and pathogens. Treated wastewater is typically discharged into receiving environments, such as waterways or land, in compliance with strict environmental and safety standards. Additionally, the treatment process generates biosolids, a nutrient-rich by-product, which can be processed and reused in applications such as agriculture or land rehabilitation.

WWTPs are considered end-of-line treatment facilities, meaning they are the final stage in the wastewater management process. However, they often have limited control over the pollutants entering their systems, as these pollutants originate from upstream sources, including households, businesses, and industries. This makes effective upstream management and collaboration with stakeholders essential to reducing the burden on treatment facilities.

WWTPs carry the dual responsibility of delivering an essential service - treating and safely disposing of wastewater, including accepting trade waste that can be suitably treated, while ensuring their operations do not cause environmental harm. Achieving this balance requires strict adherence to regulatory standards, continuous monitoring of incoming waste streams, and the implementation of best practices. By doing so, providers can maintain the sustainability of their operations while safeguarding public health and protecting natural ecosystems.

3.1 Persistent contaminants

Pollutants that can originate upstream and end up in WWTP include persistent contaminants, which are chemical substances that:

- persist in the environment for decades without breaking down
- accumulate in living organisms, including humans
- are highly mobile in water and soil, making them difficult to contain and remove.

Examples of persistent contaminants include polychlorinated biphenyls (PCBs), PFAS and microplastics.

3.2 Sources of persistent contaminants in wastewater

Persistent contaminants in wastewater can originate from:

- industrial discharges (e.g. manufacturing processes, chemical production)
- commercial activities (e.g. car washes, dry cleaning, and food processing)
- domestic sources (e.g. cleaning products, cosmetics, and treated textiles)
- historical contamination from legacy uses of products containing persistent contaminants.

Even after the use of persistent contaminants is prohibited, historical contamination and residual sources mean these substances will likely continue to enter wastewater systems for many years to come.

3.3 Challenges in managing persistent contaminants

WWTPs are often not designed to remove many persistent contaminants, as their primary function is to treat contaminants like organic carbon, nitrogen, phosphorus, and pathogens. Advanced treatment technologies capable of removing certain persistent contaminants may be costly, energy-intensive, or not yet widely implemented. As a result, persistent contaminants may remain in treated wastewater, which may then be released into the environment.

At the minimum WWTP operators must comply with their general environmental duty and take all reasonably and practicable measures to prevent or minimise environmental harm. For example, such measures can include:

- entering into commercial arrangements or trade waste agreements to limit influent entering the treatment system
- biosolids monitoring before reuse
- effluent monitoring before reuse.

4 Stakeholder concerns

This section summarises key concerns raised by stakeholders. Questions to prompt stakeholder feedback are included at the end of the discussion paper. This feedback will inform the review of the statutory provisions in the EP Act.

4.1 Defining 'polluter'

The polluter pays principle is a key part of Queensland's environmental policy, adopted through the Intergovernmental Agreement on the Environment (IGAE), which is included in the *National Environment Protection Council (Qld) Act 1994*. This principle means that those responsible for creating pollution must cover the costs of managing, preventing, and fixing it.

The EP Act does not specifically define 'polluter'. Instead, the term is understood in its ordinary sense under Queensland's *Acts Interpretation Act 1954*. A polluter can be any person, organisation, or source that introduces harmful substances into the environment. This broad definition may include multiple contributors along the pollution chain, such as WWTP operators.

While the term ‘polluter’ is broadly applied, it must be considered alongside any legal permissions, like environmental authorities, under the EP Act. The wide scope of the definition means that several parties could be held responsible for releasing contaminants, even if it was unintentional. This can make it challenging to identify the exact source of long-lasting pollutants.

If a WWTP plant cannot effectively treat persistent contaminants, these may still be present in its discharges. When applying the polluter pays principle to guide operations, it’s important to consider the entire supply chain and how these contaminants entered the system.

4.2 Financial and operational challenges

It is understood that WWTP operators face major financial and operational difficulties in dealing with persistent contaminants. Removing these substances often needs expensive and less accessible advanced treatment technologies. Additionally, because these contaminants remain in the environment for a long time, contamination pathways can persist even after the source chemicals are banned.

4.3 Legislative protections for WWTP operators

Stakeholders are concerned that current laws do not properly hold manufacturers or users of persistent contaminants accountable for the pollution their products cause. Some contaminants come from widespread sources, like household wastewater, making them hard to control.

The Australian Government manages chemical use (import, manufacturing, and usage) under the Industrial Chemicals Environmental Management Standard. A copy of the standard is available at <https://www.dcceew.gov.au/environment/protection/chemicals-management/national-standard>.

The wastewater industry has requested legal protections to ensure WWTP operators are not unfairly responsible under the polluter pays principle.

5 Statutory requirements under the EP Act

5.1 Environmental authorities

Sewage treatment services and plants are classified as environmentally relevant activities under Schedule 2, Section 63 of the Environmental Protection Regulation 2019, requiring operators to obtain an environmental authority to operate legally.

These authorities allow a certain level of environmental harm and include conditions to manage it. When setting conditions for releasing contaminants, the regulator assesses whether the treated effluent and by-products meet environmental and health standards. Environmental authorities may permit controlled wastewater releases, require contaminant monitoring, and set notification triggers if release limits are exceeded.

5.2 General environmental duty

Under Section 319 of the EP Act, everyone has a general duty to avoid activities that cause or are likely to cause environmental harm, unless they take all reasonable steps to prevent or minimise the harm.

This duty legally requires individuals to actively reduce the risk of environmental harm from their actions. Failing to meet this duty is an offence if it results in, or is likely to result in, serious or significant harm to the environment.

However, no offence is committed if the activity is authorised by an instrument under the EP Act (Section 493A(2)) and reasonable measures are taken to manage the activity. Examples of such instruments include:

- a transitional environmental program
- an environmental enforcement order (EEO)
- an environmental authority or progressive rehabilitation and closure plan (PRC plan) schedule
- an emergency direction.

An environmental authority may include conditions to help operators meet their general environmental duty. However, if the authority does not address the release of contaminants, it does not authorise the harm caused by such releases. If a WWTP releases contaminants without authorisation, operators may breach their general environmental duty, which requires them to take 'reasonably practicable' steps to minimise harm. However, it may not always be practical to reduce certain contaminants, such as PFAS.

For activities involving industrial chemicals, the EP Act (Section 319A) also requires compliance with risk management measures set under the *Commonwealth Industrial Chemicals Environmental Management (Register) Act 2021* (ICEMR Act). Many persistent contaminants, including certain PFAS compounds, are listed as high-risk chemicals in Schedule 7 of the ICEMR Act and must be phased out in all uses.

Under the Commonwealth's *Industrial Chemicals Act 2019*, the term 'use' is broadly defined and includes the release of persistent contaminants.

5.3 Duty to restore

Section 319C of the EP Act outlines a duty to restore the environment when contamination causes environmental harm. This duty requires the person responsible for the harm to take proactive steps to fix it. It is based on the polluter pays principle and works alongside the general environmental duty (Section 319).

This duty does not apply to lawful operators if the activity causing the harm was authorised under an environmental authority.

When deciding on appropriate and practical restoration measures, the following factors must be considered:

- the nature and extent of the harm
- the sensitivity of the environment to potential remedial actions
- current technical knowledge about effective remediation methods
- the likelihood of success for different restoration measures
- the financial costs of the proposed actions.

These factors align with those used under Section 319 to determine reasonable steps for meeting the general environmental duty.

6 Compliance and enforcement

As part of its role, the department monitors and enforces compliance with the EP Act. Details about its compliance and enforcement approach are outlined in the guideline: [Compliance under the EP Act](#).

When addressing unauthorised contaminant releases, the department first assesses what measures are reasonably practicable to prevent or minimise environmental harm. The [general environmental duty information sheet](#) outlines factors to consider, including:

- current technical knowledge and industry practices for mitigation
- likelihood of success for different measures and controls
- financial costs of the measures for the activity
- nature, likelihood, and severity of the harm or potential harm
- sensitivity of the environment and how harm may affect its values.

Enforcement of IChEMS provisions under the general environmental duty follows the department's policies, including the compliance and enforcement framework.

The [Enforcement Guideline](#) helps the department decide on enforcement actions, ensuring they are proportionate to the severity of the breach. The department may provide advice or assistance to help compliance, but for those who fail to meet their obligations, it will take consistent and firm enforcement action.

7 Questions for feedback

1. What are the key financial and operational challenges unique to the WWTP industry when managing persistent contaminants?
2. Are there measures that may assist in better managing the inputs to WWTPs, including trade waste approvals?
3. Are there any regulatory measures that may assist WWTP operators in meeting their environmental obligations under the EP Act?
4. Are the current legislative settings adequate, and could there be areas where adjustments might be beneficial?

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