

## Environmental Protection (Powers and Penalties) and Other Legislation Amendment Bill 2024

**Submission No:** 5  
**Submitted by:** City of Gold Coast  
**Publication:** Making the submission and your name public  
**Attachments:** No attachment

### Submitter Comments:

We generally support and agree in principle with the changes proposed by the Bill. We support the inclusion of the polluter pays principle, the proportionality principle, the principle of primacy of prevention, and the precautionary principle. We strongly support the inclusion of failure to comply with the general environmental duty as an offence where the failure is likely to cause serious or material environmental harm. We support the inclusion of environmental nuisance as being considered material or serious environmental harm. We welcome the introduction of a new compliance tool and would like to see greater transparency in the criteria for issuing the new 'environmental enforcement order' to enable the City to have greater internal and external powers for prevention in the first instance. As the holder of numerous environmental authorities, we support the clarifications around the issuance of environmental enforcement orders and when environmental investigations can occur. The City welcomes the regulator in conducting inspections and investigations where required and necessary. We welcome the standalone duty to restore the environment, but express some concern where this may be related to contamination where the source can not be fully understood or confirmed (i.e., assumptions of contamination are not considered fair or reasonable grounds). We support the administering authority being enabled to initiate and amend transitional environmental programs. We strongly support the inclusion of the duty to notify of serious or material environmental harm including circumstances where the person/organisation ought to reasonably have become aware of the event. We welcome changes and inclusions to provisions being included in both criminal and civil proceedings. We support the proposed administrative changes, particularly the use of more inclusive and culturally appropriate language. Further to the above, we provide the following additional comments: 1) With regard to the City as an enforcement regulator (local laws and provisions), we express concern that the amendments retain a restriction on the ability for local governments to issue certain notices, in particular, the issuance of certain notices directing reparation, clean up, and cost recovery. This notes that the City incurs significant costs in undertaking clean-ups and reparations without legislative mechanisms available to seek to recover these costs (i.e., through the polluter pays principle). We request consideration to enable local governments to issue environmental enforcement orders for clean-up directions and reparations, and to issue cost-recovery notices where immediate action is required to prevent or control the extent of environmental harm where the polluter cannot or will not complete the necessary work. In requesting this, we acknowledge that local governments do not have devolution for serious or material environmental harm. 2) We request that a reasonable period be allowed for the implementation of these changes should the proposed amendments be made, to enable internal and external communications, education, amendments of internal procedures, creation of new infringement offence codes, new sub delegations, and amendment to local laws as required. We estimate that this may require approximately 3 months.