

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

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Your Ref: 17390750
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4 March 2024

Health, Environment and Agriculture Committee
Queensland Parliament

Sent by email: HEAC@parliament.qld.gov.au

Dear Sir/Madam

Consultation – *Environmental Protection (Powers and Penalties) and Other Legislation Amendment Bill 2024*

Attached is a submission on the *Environmental Protection (Powers and Penalties) and Other Legislation Amendment Bill 2024* (the Bill).

Given the State has provided a consultation period of less than 2 weeks during local government caretaker period, this submission has not been endorsed by Logan City Council and should be considered an Officer-level submission only.

A summary of concerns includes:

Amendments to Environment and Environmental Value definitions

The proposal to introduce 'human health' in the definition of 'environment' and the term 'public health' in the definition of 'environmental value' may increase regulatory responsibilities for local governments. For example, the proposed amendment may require local government to regulate asbestos matters that are outside the scope of 'prescribed work' as currently defined under *Public Health Regulation 2018* administered by local government. This will have significant impact on local government resourcing.

The proposal to connect human safety with the definition of 'environment' and 'environmental value' does not adequately address or consider the delineation required between the *Environmental Protection Act 1994* and *Work Health and Safety Act 2001*.

This matter needs to be clarified urgently.

Environmental Nuisance causing Serious or Material Environmental Harm

The proposal to not preclude environmental nuisance as 'serious or material environmental harm' lacks detail and is ambiguous on thresholds of responsibility. This may create additional unfunded regulatory responsibilities for local government.

Powers exercised by the State that are not available to Local Government

The Bill does not resolve the long-standing concerns of providing local governments with the same regulatory tools available to the State. Specifically, the ability to recoup clean-up costs, the offence provision for non-compliance with the 'general environmental duty' and the offence provision for

'failing to meet the duty to restore the environment' should be options available to local governments to allow effective enforcement of the Act.

The ability for local government to exercise these powers would create regulatory efficiencies and facilitate local government's alignment with legislative principles including 'polluter pays', 'proportionality' and 'primary prevention'.

If you have further questions about this matter, please contact Cherie Parkyn, Environmental Health and Immunisation Program Leader, on [REDACTED] or [REDACTED]

Yours faithfully

[REDACTED]

Brett Esbensen
Manager
Health, Climate and Conservation

Att: Environmental Protection (Powers and Penalties) and Other Legislation Amendment Bill 2024
consultation response

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

Proposed amendments to the *Environmental Protection Act 1994* -

No.	Proposed amendment	Comment	Supported/Not supported
		<p>Given the State has provided a consultation period of less than 2 weeks during local government caretaker period, this submission has not been endorsed by Logan City Council and should be considered an Officer-level submission only.</p>	
1.	<p>Replace the phrase 'all reasonable and practicable measures' with 'all reasonably practicable measures' throughout the legislation.</p>	<p>This amendment does not impact the intent of the legislation and simply removes the potential for a 2 tiered 'reasonable and practicable' test and provides for a single test 'reasonably practicable'.</p>	Supported
2.	<p>Amendment of s 6 (Community involvement in administration of Act) - replaces the term 'Aborigines and Torres Strait Islanders' with 'Aboriginal peoples and Torres Strait Islander peoples.'</p>	<p>This amendment ensures the <i>Environmental Protection Act 1994</i> includes culturally and socially appropriate language.</p>	Supported
3.	<p>Insert new section 6A Principles of environmental protection – (1) This Act is to be administered having regard to— (a) the following principles of environmental policy as set out in the Intergovernmental Agreement on the Environment— (i) the precautionary principle; (ii) intergenerational equity; (iii) conservation of biological diversity and ecological integrity; (iv) improved valuation, pricing and incentive mechanisms (which includes the principle known as the principle of polluter pays); and (b) the principle (known as the principle of proportionality) that a</p>	<p>This amendment requires the <i>Environmental Protection Act 1994</i> to be administered regarding specified environmental policy principles.</p> <p>The full list of principles to be included -</p> <ul style="list-style-type: none"> • The principle of polluter pays • The proportionality principle; • The principle of primacy of prevention; • The precautionary principle • The intergenerational equity principle • The conservation of biological diversity and ecological integrity principle and 	Not supported

	<p>decision, action or thing directed towards minimising harm or a risk of harm to the environment should be proportionate to the harm or risk of harm that is being addressed; and</p> <p>(c) the principle (known as the principle of primacy of prevention) that prevention of harm to the environment is preferred to remedial or mitigation measures.</p> <p>(2) If a provision of this Act requires the chief executive or administering authority to consider, or have regard to, the standard criteria, the chief executive or administering authority— (a) must consider, or have regard to, the standard criteria; and</p> <p>(3) (b) need not but may consider, or have regard to, any other principle mentioned in subsection (1).</p>	<ul style="list-style-type: none"> • The improved valuation, pricing, and incentive mechanisms principle <p>More clarity around the interpretation and application of the improved valuation, pricing and incentive mechanisms principle is required.</p> <p>One mechanism that applies the polluter pays principle is the power to recoup clean-up costs. This power is only available to the State. Granting local government, the power to recoup clean-up costs aligns with the principles of the <i>Environmental Protection Act 1994</i>.</p>	
4.	<p>Amend section 8 to include human health, well-being and safety more clearly in the definition of 'environment' by including:</p> <p>(c) the physical characteristics of locations, places and areas, however large or small; and</p> <p>(d) the physical surroundings of people, including the land, waters, atmosphere, climate, sound, odours and tastes.</p>	<p>This amendment removes the wording 'that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community' and replaces it with the 'physical surroundings of people, including the land, waters, atmosphere, climate, sound, odours and tastes' to provide clarity around the application of the definition to human health.</p> <p>It is important that the legislation adequately delineates between <i>Environmental Protection Act 1994</i> powers and functions relating to matters affecting human health and <i>Public Health Act 2005</i> powers and functions relating to matters affecting</p>	Not supported

		<p>human health. The <i>Environmental Protection Act 1994</i> should not qualify actions that expressly fall outside the scope of the <i>Public Health Act 2005</i>.</p> <p>For example, regulation of certain asbestos activities under the <i>Public Health Regulation 2018</i> has been devolved from the State to local government. The proposal to include 'human health' in the definition would require local government to regulate environmental nuisance that include asbestos in scenarios much broader than the narrow scope of prescribed works detailed within the <i>Public Health Regulation 2018</i>.</p> <p>The proposal to connect human safety with the definition of environment does not adequately address or consider the delineation required between the Environmental Protection Act and Workplace Health and Safety Queensland matters, which are more appropriately regulated under the <i>Work Health and Safety Act 2011</i>.</p> <p>The legislation should stipulate that the <i>Environmental Protection Act 1994</i> only aims protects human health to the extent it is affected by the environment, with examples and limitations included.</p>	
5.	Amend section 9 Environmental Value to include the wording 'public health or safety'.	<p>This proposal adds 'public health or safety' to the definition of environmental value.</p> <p>The legislation should delineate between <i>Environmental</i></p>	Not supported

		<p><i>Protection Act 1994</i> powers and functions relating to matters affecting human health and <i>Public Health Act 2005</i> powers and functions relating to matters affecting public health. The <i>Environmental Protection Act 1994</i> should not qualify actions that expressly fall outside the scope of the PH Act.</p> <p>For example, regulation of certain asbestos activities under the <i>Public Health Regulation 2018</i> has been devolved from the State to local government. The proposal to include 'human health' in the definition would require local government to regulate environmental nuisance that include asbestos in scenarios much broader than the narrow scope of prescribed works detailed within the <i>Public Health Regulation 2018</i>.</p> <p>The proposal to connect human safety with the definition of environment does not adequately address or consider the delineation required between the <i>Environmental Protection Act 1994</i> and Workplace Health and Safety Queensland matters, which are more appropriately resolved through the <i>Work Health and Safety Act 2011</i>.</p> <p>The legislation should stipulate that the <i>Environmental Protection Act 1994</i> only protects human health to the extent it is affected by the environment, with examples and limitations included.</p>	
6.	Section 15 or sections 16 and 17 of the EPA (Qld) should be amended to make clear that environmental	This amendment will increase unfunded regulatory	Not supported

	<p>harm that may constitute a nuisance at low levels may also constitute material and serious environmental harm if it meets the definitions of those terms.</p>	<p>responsibilities for local government.</p> <p>The mechanism appears to make local government, in the first instance, responsible for any matter that meets the definition of a nuisance. The State will only assume responsibility upon the chief executive providing written notice advising the matter is serious or material environmental harm.</p> <p>It is possible that DESI will refer all matters that fit the definition of a nuisance to local government in the first instance, requiring a local government investigation and referral before the State will consider taking responsibility.</p> <p>Local government have no visibility around the volume or scope of work that supporting this amendment imposes.</p> <p>The amendment raises issues for local government of quantifying instances of environmental nuisance in financial terms for the definitions of material and serious environmental harm. Nuisance issues can be subjective and applying a monetary threshold to quantify and assess a nuisance is inappropriate due to its subjective nature. Furthermore, the financial impacts associated with the investigation and abatement of a nuisance may only become known upon completion of the investigation and subsequent remedy, negating the opportunity to refer the matter to DESI. It is acknowledged that monetary</p>	
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		<p>thresholds are not a necessary qualifier for material and serious environmental harm. For example, if environmental harm is not trivial or negligible in nature, extent, or context, it will constitute material environmental harm (regardless of the monetary threshold). A clear and unambiguous decision-making framework that facilitates accurate and consistent decisions on environmental harm matters is required.</p> <p>It is not specified how local government will quantify any costs to the satisfaction of DESI. Furthermore, the <i>Environmental Protection Act 1994</i> does not grant local government the powers to recoup costs associated with abatement or remedy of an environmental harm incident.</p>	
7.	Amendment to section 24 to include the new duty to restore the environment.	This amendment provides that the duty to restore alone does not give rise to a civil right or remedy.	Supported
8.	Amendments section 219 allows the administering authority to make revisions to a proposed amendment to an environmental authority (EA).	This amendment provides administrative efficiencies when considering representations received in response to a notice of proposed amendment issued on an Environmental Authority holder.	Supported
9.	Establish an offence for contravening the general environmental duty.	This amendment can only be applied by the State as it relates to an activity causing or likely to cause serious or material environmental harm. Local government should also have this power to facilitate deterrence	Not supported

		<p>against 440ZG events and ERA pollution incidents.</p> <p>For the application of preventative measures to be effective an education campaign that informs businesses and the community of their duties and offences is required. The State would be the appropriate authority to lead this.</p>	
10.	<p>Legal protections for persons to ensure that using compliance with general environmental duty as a defence does not provide evidence to become a second charge of non-compliance with the general environmental duty for the same offence.</p>	<p>This amendment can only be applied by the State as it relates to an activity causing or likely to cause serious or material environmental harm.</p>	Supported
11.	<p>Insert new section 319C duty to restore the environment.</p>	<p>This amendment can only be applied by the State as it relates to an activity causing or is likely to cause serious or material environmental harm. Local government should also have this power to assist rehabilitation following 440ZG events or ERA pollution incidents.</p>	Not supported
12.	<p>Amendment to section 320A, 320B, 320C, 320D, 320DA and 320DB to expands the duty to notify to situations where a person not only becomes aware but where they 'ought reasonably to have become aware', of an event that requires notification.</p>	<p>This amendment may apply to local government Environmental Authorities. DESI should support local government with updated guidance to reflect circumstances where local government 'ought reasonably to have become aware' of a notifiable event.</p>	Supported
13.	<p>Amendment to section 326B to remove any doubt that the administering authority may issue a person with a notice to conduct an environmental investigation for environmental harm despite the activity being carried out under an Environmental Authority.</p>	<p>This amendment clarifies that an Environmental Authority may be issued with an investigation notice. This amendment supports local government regulatory activities.</p>	Supported

14.	Amendment to section 326BA to remove any doubt that the administering authority may issue a person with a notice to conduct an environmental investigation for contaminated land, despite the activity being carried out under an environmental authority.	This amendment can only be applied by the State as it relates to contaminated land as an activity causing or likely to cause serious or material environmental harm.	Supported
15.	Inserts a heading for chapter 7, part 3, division 3, subdivision 1	This administrative change accommodates the inclusion of other new divisions under this part.	Supported
16.	The inclusion of new section 344AA provides that the administering authority may amend a transitional environmental program to correct clerical or formal errors.	This amendment supports local government regulatory activities.	Supported
17.	The inclusion of new section 344AB provides that the administering authority may amend a transitional environmental program if it considers the amendment necessary or desirable for the purpose of the program achieving compliance with the <i>Environmental Protection Act 1994</i> .	This amendment supports local government regulatory activities.	Supported
18.	The inclusion of new sections 344AB 344AC, 344AD, 344AE, 344AF, 344AG and 344AH provides processes and procedures for receiving, considering and approving amendments.	This amendment supports local government regulatory activities.	Supported
19.	Introduction of environmental enforcement orders to replace and consolidate the functions of environmental protection orders, direction notices and clean-up notices under the pre-amendment <i>Environmental Protection Act 1994</i> .	The amendment to consolidate the environmental protection orders, direction notices and clean-up notices into one notice does not provide local government powers to recoup costs associated with executing compliance activities in response to non-compliance with a notice. Currently, only the State may exercise this power, but it should be shared with local government.	Supported
20.	Insert new section 359 meaning of enforcement ground.	These grounds generally reflect the grounds and matters for which environmental protection orders and direction notices	Supported

		could be issued under the pre-amendment <i>Environmental Protection Act 1994</i> . However, it extends the grounds to issue a notice to secure compliance with a transitional environmental program and a temporary emissions licence. This amendment supports local government regulatory activities.	
21.	Insert new section 360 and 361 relating to contaminated land incidents.	This amendment relates to contaminated land and can only be applied by the State.	Supported
22.	New section 362 prescribes the circumstances or events for when the administering authority may issue an EEO to a person.	An EEO can be issued to a person if the administering authority believes an enforcement ground listed under new section 359 exists. This amendment supports local government regulatory activities.	Supported
23.	New section 363 prescribes that before deciding to issue an EEO, the administering authority must consider the standard criteria.	Section 363 prescribes that before deciding to issue an EEO, the administering authority must consider the standard criteria and where the administering authority is not required to consider the standard criteria. This amendment supports local government regulatory activities.	Supported
24.	New section 364 provides the matters that the administering authority must consider before issuing an EEO for the contravention of section 440 (offence of causing an environmental nuisance)	The section is retained from the pre-amendment <i>Environmental Protection Act 1994</i> . This amendment supports local government regulatory activities.	Supported
25.	New section 365 provides that any references to taking an action Stated in an EEO may include achieving an outcome.	This section retains a provision from the pre-amendment <i>Environmental Protection Act 1994</i> . This amendment supports local government regulatory activities.	Supported

26.	New section 366 prescribes the form and content requirements for an EEO.	This section is based on form and content requirements for environmental protection orders, direction notices and clean-up notices under the pre-amendment <i>Environmental Protection Act 1994</i> . This amendment supports local government regulatory activities.	Supported
27.	New section 367 provides actions that may be Stated in an EEO for a recipient to undertake.	This section is based on provisions about the scope of actions that may be required by an environmental protection order, direction notice or clean-up notice that existed under the pre-amendment <i>Environmental Protection Act 1994</i> . This amendment supports local government regulatory activities.	Supported
28.	New section 368 provides that the time for a recipient to take an action Stated in an EEO must be reasonable.	This section is based on provisions for direction notices and clean-up notices about determining a reasonable time for actions under the notice that existed under the pre-amendment <i>Environmental Protection Act 1994</i> . This amendment supports local government regulatory activities.	Supported
29.	New section 369 provides how an EEO may be issued. If an EEO is issued to multiple recipients, the administering authority must ensure that a copy is given to each recipient. Flexibility is also provided to the administering authority and authorised persons to make a requirement to remedy a matter orally where it is not practicable to address the matter by a written order and then confirm in writing through an EEO as soon as practicable afterward.	Each of these provisions is based on previous provisions for clean-up notices and direction notices that existed under the pre-amendment <i>Environmental Protection Act 1994</i> . This amendment supports local government regulatory activities.	Supported
30.	New section 369A provides offences for contravening a requirement of an	A two-tiered approach is applied, one more severe than the other,	Supported

	EEO unless the person has a reasonable excuse.	the higher offence relating to wilful non-compliance. This amendment supports local government regulatory activities.	
31.	New section 369B makes defences available for a recipient of an EEO who is charged with an offence of contravening or wilfully contravening an EEO.	This is consistent with the existing defences for failure to comply with a clean-up notice in section 363I of the pre-amendment <i>Environmental Protection Act 1994</i> . This amendment can only be applied by the State.	Supported
32.	New section 369C requires the recipient of an EEO to disclose the existence of the order to a buyer by written notice when selling or disposing of the place or business subject to the EEO.	This section is consistent with an existing requirement for environment protection orders under former section 362 of the pre-amendment <i>Environmental Protection Act 1994</i> . However, the requirement is expanded as it applies to an EEO issued on any grounds that relate to a place or business.	Supported
33.	New section 369D requires the recipient of an EEO who has ceased the activity to which the EEO relates to give written notice of the ceasing of carrying out the activity to the administering authority.	This is consistent with an existing requirement for EPOs under section 363 of the pre-amendment <i>Environmental Protection Act 1994</i> . However, the requirement is expanded by applying to any EEO where the relevant matter for which the EEO was issued relates to the carrying out of an activity. Carrying out a prosecution in these circumstances may be impractical given the activity warranting the issue of the EEO has ceased.	Supported
34.	New section 369E provides a statutory process to allow for a recipient of an EEO or someone acting on their behalf to take action on land that they do not own.	This section is based on the existing procedural requirements for clean-up notices in former section 363J and for environmental protection orders issued to a related person of a	Supported

		<p>company in former section 363AF under the pre-amendment <i>Environmental Protection Act 1994</i>. However, the requirement is expanded by applying to an EEO issued on any grounds. Who pays compensation for any damages or injuries incurred while undertaking duties on another's land at the lawful written direction of local government.</p> <p>This amendment can only be applied by the State.</p>	
35.	<p>New section 369F allows for the administering authority to take an action Stated in the EEO when the recipient of an EEO fails to do so within the Stated period.</p>	<p>This section is based on the existing procedural requirements for clean-up notices in former section 363K and for environmental protection orders issued to a related person of a company in former section 363AG under the pre-amendment <i>Environmental Protection Act 1994</i>. However, the requirement is expanded by applying to an EEO issued on any grounds.</p> <p>This amendment can only be applied by the State.</p>	Supported
36.	<p>New section 369G provides protections for owners and occupiers of the land being entered to undertake actions Stated in the EEO pursuant to new sections 369E and 369F.</p>	<p>This section is consistent with the existing requirement for clean-up notices in former section 363J and for environmental protection orders issued to a related person of a company in former section 363AF of the pre-amendment <i>Environmental Protection Act 1994</i>. However, the requirement is expanded by applying to an EEO issued on any grounds.</p>	Supported

		This amendment can only be applied by the State.	
37.	New section 369H allows the recipient of an EEO, who is a prescribed person for a contamination incident, to recover costs in particular circumstances.	<p>This is consistent with the existing provision for cost recovery by a recipient of a clean-up notice under former section 363H in the pre-amendment <i>Environmental Protection Act 1994</i>.</p> <p>This amendment can only be applied by the State.</p>	Supported
38.	New section 369I provides an offence for the obstruction of a recipient of an EEO or a person acting on their behalf.	<p>This is consistent with the existing offence provision for clean-up notices in former section 363L and for environmental protection orders issued to a related person of a company in former section 363AH under the pre-amendment <i>Environmental Protection Act 1994</i>.</p> <p>This amendment can only be applied by the State.</p>	Supported
39.	New section 369J provides that the administering authority may issue a cost recovery notice to a recipient of an EEO to recover costs it incurred in taking action in place of the recipient.	<p>This section is based on the existing power to issue cost-recovery notices to the recipient of clean-up notices under former section 363N and to the recipient of environmental protection orders issued to a related person of a company under former section 363AI of the pre-amendment <i>Environmental Protection Act 1994</i>.</p> <p>This amendment can only be applied by the State.</p>	Supported
40.	New section 369K provides the circumstances when amounts claimed under cost recovery notices are not required to be paid.	The circumstances are consistent with those that existed under subsection (5) of former section 363N of the pre-	Supported

		<p>amendment <i>Environmental Protection Act 1994</i>.</p> <p>This amendment can only be applied by the State.</p>	
41.	<p>New section 369L specifies that if a cost recovery notice is issued to two or more recipients, a copy of the notice must be given to each of the recipients.</p>	<p>This is consistent with the existing requirement for cost recovery notices under former section 363O of the pre-amendment <i>Environmental Protection Act 1994</i>.</p> <p>This amendment can only be applied by the State.</p>	Supported
42.	<p>Clause 38 inserts new section 440A which provides that a finding of guilt against an environmental nuisance offence is available as an alternative when deciding in a proceeding for an offence of serious or material environmental harm.</p>	<p>This is consistent with the existing section 439 of the <i>Environmental Protection Act 1994</i> which provides that a court may find a defendant guilty of causing material environmental harm if charged with causing serious environmental harm.</p> <p>This amendment can only be applied by the State.</p>	Supported
43.	<p>Amendment to section 458 as a consequence of the introduction of the environmental enforcement order which replaces and consolidates the current functions of environmental protection orders, direction notices and clean-up notices.</p>	<p>This provision only applies where a prescribed person for a contamination incident has been issued an environmental enforcement order.</p> <p>This amendment can only be applied by the State.</p>	Supported
44.	<p>Amendment to section 490 to allow the production of certificates, for example about the analysis of a sample, as evidence in a civil proceeding under or in relation to the <i>Environmental Protection Act 1994</i>.</p>	<p>This applies to civil proceedings under the <i>Environmental Protection Act 1994</i>.</p>	Supported
45.	<p>Amendment to section 491 to provide that opinion evidence may be given in civil proceedings in relation to certain offences involving environmental nuisance.</p>	<p>This amendment allows evidentiary provisions to apply</p>	Supported

		<p>consistently across both criminal and civil proceedings.</p> <p>Section 491 will continue to only apply to proceedings in relation to an offence against section 430 (contravention of a condition of an environmental authority), 440 (offence of causing environmental nuisance) or 440Q (offence of contravening a noise standard).</p> <p>The <i>Environmental Protection Act 1994</i> must be clear that this section does not create a scenario where local government officers are compelled to act as witnesses in civil proceedings.</p>	
46.	<p>Amendment to section 491A to provide that opinion evidence may be given in civil proceedings for an offence under the <i>Environmental Protection Act 1994</i> related to noise if it is claimed audible noise was made.</p>	<p>Section 491A will continue to only apply to proceedings in relation to an offence against the <i>Environmental Protection Act 1994</i> where it is claimed that audible noise was made.</p> <p>The <i>Environmental Protection Act 1994</i> must be clear that this section does not create a scenario where local government officers are compelled to act as witnesses in civil proceedings.</p>	Supported
47.	<p>Amendment to section 516 to provide that a power under a regulation prescribed by that regulation as a power that cannot be delegated, is a power that cannot be delegated by the chief executive.</p>	<p>If local government investigates a nuisance that the local government considers material or environmental harm, waiting for approval (in writing) from the chief executive to hand the matter over to DESI will cause delay. The delay could result in significant environmental harm occurring. It is recommended that alternate mechanisms are considered.</p>	Not supported

48.	Amendment of section 539D (Stay of particular decisions if unacceptable risk of environmental harm).	This amendment can only be applied by the State.	Supported
49.	Amendment of section 539E (Stay of decision to issue a clean-up notice).	This amendment can only be applied by the State.	Supported
50.	Consequentially amends section 551 to include considerations inserted into section 319 by clause 13 of the Bill as matters the Minister may have regard to in making a code of practice for achieving compliance with the general environmental duty.	This amendment can only be applied by the State.	Supported
51.	Amends section 579D to clarify that a person must not use or disclose confidential information unless the use or disclosure is done under particular circumstances.	Section 579D clarifies that a person must not use or disclose confidential information unless the use or disclosure is done under particular circumstances.	Supported
52.	New section 579E provides that the chief executive may establish an arrangement with another relevant entity for the purposes of sharing or exchanging information.	This amendment supports local government regulatory activities.	Supported
53.	New section 810 provides that the former provisions continue to apply in relation to existing environmental protection orders, direction notices, clean-up notices and cost recovery notices as if the <i>Environmental Protection Act 1994</i> had not been amended by this amending Bill.	Administrative function to ensure continuity and that the new legislation does not absolve notices already in effect. This amendment supports local government regulatory activities.	Supported
54.	New section 811 provides the transitional provisions for offences against the offence provisions of former chapter 7, parts 5–5B (environmental protection orders, directions notices and clean-up notices).	Administrative function to ensure continuity and that the new legislation does not absolve notices already in effect. This amendment supports local government regulatory activities.	Supported
55.	New section 812 requires the administering authority to continue to keep a register of existing environmental protection orders, existing direction notices and existing clean-up notices to ensure a historical record of compliance and enforcement actions remains available.	This amendment is complied with by continuing to maintain records in corporate systems.	Supported

56.	New section 813 ensures that a reference in an instrument, which includes any document, to an environmental protection order, direction notice or clean-up notice may, if the context permits, be taken to be a reference to an environmental enforcement order.	Administrative function to ensure continuity and that the new legislation does not absolve notices already in effect. This amendment supports local government regulatory activities.	Supported
57.	New section 814 provides that the administering authority has the power to issue an environmental enforcement order after the commencement of this amendment Bill for conduct or actions engaged in prior to its commencement that could have previously been dealt with through the issue of an environmental protection order, direction notice or clean-up notice but was not.	Administrative function to ensure continuity and that the new legislation does not absolve notices already in effect. This amendment supports local government regulatory activities.	Supported
58.	New section 815 provides that the duty to restore the environment under section 319C only applies in relation to an incident involving contamination that happens after the commencement of this amending Bill. This makes clear the duty provision does not have a retrospective application.	This amendment can only be applied by the State.	Supported
59.	New section 816 provides section 440A applies only in relation to a proceeding for an offence that started after the commencement of the amendment Bill.	This amendment can only be applied by the State.	Supported
60.	New section 817 provides that the guideline called 'Issuing 'chain of responsibility' environmental protection orders under chapter 7, part 5, division 2 of the Environmental Protection Act 1994' continues to be in effect until a new guideline for environmental enforcement orders is approved under 548A(2).	A reference to an environmental protection order may be taken to be a reference to an environmental enforcement order. Administrative function to ensure continuity.	Supported
61.	Amends schedule 2 to ensure that particular decisions amended or inserted in the Bill are listed as original decisions.	Administrative function to ensure continuity.	Supported
62.	Amends the Dictionary in schedule 4 of the <i>Environmental Protection Act 1994</i> .	Administrative function to ensure continuity.	Supported

Proposed amendments to the Environmental Protection Regulation 2019 -

1.	Amends section 130 to provide that the administration and enforcement of environmental nuisance is no longer devolved to a local government if it relates to a particular matter that the chief executive has decided involves serious or material environmental harm.	<p>The amendment provides clarity but in practice may cause delay.</p> <p>The mechanism appears to by default, to make local government responsible for any matter that meets the definition of a nuisance. If local government investigates a nuisance that the local government considers material or environmental harm, waiting for approval (in writing) from the chief executive to hand the matter over to DESI will cause delay. The delay could result in significant environmental harm occurring. It is recommended that alternate mechanisms are considered.</p>	Not supported
2.	Amendment of s 137 (Issuing particular notices and orders).	<p>This amendment ensures that local government continue to be restricted from issuing notices in certain circumstances.</p> <p>Granting local government, the power to recoup clean-up costs should be considered as it aligns with the principles of the <i>Environmental Protection Act 1994</i>. Such as polluter pays and proportionality.</p>	Not supported
3.	Omission of s 187 (Approval of guidelines about issuing particular environmental protection orders– Act, s 548A)	The transitional provision under new section 817 allows for the continuation of this guideline for environmental protection orders issued in accordance with the pre-amendment <i>Environmental Protection Act 1994</i> .	Supported