

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

Submission No: 13
Submitted by: Queensland Cane Agriculture & Renewables
Publication:
Attachments:
Submitter Comments:



4 March 2024

Submission to the Health, Environment and Agriculture Committee in response to the *Inquiry into the Environmental Protection (Powers and Penalties) and Other Legislation Amendment Bill 2024*

QCAR welcomes the opportunity to make a submission in response to the proposed legislative amendments.

QCAR would also welcome the opportunity to participate at the proposed hearing of the Committee to further discuss our submission and concerns.

QCAR represents sugarcane farmers between Mackay and the Herbert.

We provide the following comments in response to the proposed amendments.

The Government's proposed amendment - section 8 and 9 of the EP Act to ensure that human health, well-being, and safety are included within the definitions of 'environment' and 'environmental value'.

Response:

QCAR remains concerned with potential overlap and regulatory duplication with other legislation. In addition, we remain concerned about the terms 'human health,' 'well-being' and 'safety' being used within the EP Act and the need for further definitions to ensure that this was limited to the environmental implications to reduce concerns of subjectivity. Mental health and well-being were raised as an issue, being linked to individual well-being and not readily measurable and may create an increased expectation on industry and cause unintended consequences on the regulation of an industry. WE are also concerned about the safety aspect and that this term may be overreaching for the EP Act as safety is covered by other legislation.

The Government's proposed amendment

The consultation paper proposed amendments to sections 15, 16 and 17 of the EP Act to ensure that, despite contaminants having the prescribed characteristics of environmental nuisance in section 15, their release may constitute material or serious environmental harm.

Response

We are concerned that the application of amended definitions of environmental nuisance, and material and serious environmental harm could restrict the use of sound deterrent measures enforced by Biosecurity Queensland raised. We also have a concern about the practicalities of determining how to quantify instances of environmental nuisance in financial terms for the definitions of material and serious environmental harm, as nuisance complaints can be subjective and therefore applying a monetary threshold to quantify and assess a nuisance is inappropriate due to its subjective nature. There would be a need for guidance material to assist regulators and industry in determining when instances of environmental nuisance no longer constitute environmental nuisance and instead constitutes material or serious environmental harm.

The Government's proposed amendment

Amendment to omit the words 'reasonable and practicable' and replace with 'reasonably practicable'.

Response.

We are concerned that the removal of the 'and' would impact our industry as there is the possibility that 'reasonably practicable' could be interpreted differently to 'reasonable and practicable and further definitions are needed to ensure consistent application of the proposed amendment. Guidelines should be provided to create a more clear and consistent application.

The Government's proposed amendment

The consultation paper proposed creating a new tool known as an Environmental Enforcement Order (EEO). The EEO, in effect, combines the existing powers and scope available under Environmental Protection Orders (EPOs), Direction Notices (DNs) and Clean-up Notices (CNs).

Response

QCAR is not supportive of a combined notice

The Government's proposed amendment

Respective DN and EPO provisions be amended to provide powers for the administering authority to undertake remedial works, and recover the costs, via the proposed EEO statutory notice.

Response

QCAR does not support this power due to the lack of specificity.

The Government's proposed amendment

QCAR response

This was not a recommendation of the independent review

QCAR does not support this wide-ranging duty and restoration power.

The Government's proposed amendment

Response

QCAR is concerned that it may lead to over-reporting to the administering authority, confusion around when reporting must occur, and increased burden on reporters. and raise concerns that the wording of 'believes' to be subjective and open to misinterpretation.



Charles Quagliata

QCAR

Chairman