

Environmental Protection and Other Legislation Amendment Bill 2022

Submission No: 8
Submitted by: Australian Barramundi Farmers' Association
Publication:
Attachments:
Submitter Comments:
Submitter Recommendations:



Mr Aaron Harper MP

Committee Chair

Health and Environment Committee

Thuringowa@parliament.qld.gov.au

26 October 2022

Subject: Request for additional time to consult with members on the Environmental Protection and Other Legislation Amendment Bill 2022

Dear Mr Harper,

The Australian Barramundi Farmers Association (ABFA) is the peak representative organisation for the Australian Farmed Barramundi Industry. We exist to facilitate the profitable and sustainable development of the industry. Our members produce more than 96% of Australia's farmed barramundi, with more than half of our members farming in Queensland.

During 2020-21, Queensland's barramundi production increased by 19.7%, with 2904.4 tonnes sold in 2019–20 and 3477.9 tonnes sold in 2020–21. The value of Queensland's barramundi sector increased by 23.2%, from \$28.3 million in 2019–20 to \$34.9 million in 2020–21. The industry in Queensland is now estimated to be worth over \$60 million per annum based on annualised production figures from the first quarter of the 2023 financial year.

While the ABFA has made a submission to the Health and Environment Committee on the Bill by the closing date of 26th October, however we request additional time to properly consider the Bill and to consult effectively with our members.

The ABFA is a significant stakeholder in this Bill on behalf of our Queensland members. However, we were only informed about the Bill on the 27th June 2022. The ABFA was clearly restricted in both time and capacity to effectively consult in preparation of our submission on the exposure draft.

The time between the introduction of the Bill on the 12th October 2022 and the closing date for submissions on the 26th October 2022 is also extremely short, particularly for industry associations such as ourselves, noting that we are also endeavouring to digest and respond to the inquiry into the Water Legislation Amendment Bill, also tabled in the 12th October 2022, with submissions due 10 November 2022.

The proposed Environmental Protection and Other Legislation Amendment Bill 2022 (EPOLA Bill) is a large and complex body of work that has requires a considered response. Given the extremely short period of time for industry to digest this information and understand its practical implications, and the amount of detailed commentary on the amendments, there is some real confusion about the nature and extent of some of the changes that are proposed and how they will operate in practice.

We therefore respectfully ask for an extension of time until the 14th November 2022 at the very minimum, and preferably 9th December 2022 to complete our submission on the EPOLA Bill. We need this time to allow us to properly digest the amendments we are uncertain about.

I look forward to your consideration and response.

Sincerely



Jo-Anne Ruscoe

CEO, Australian Barramundi Farmers Association

cc. Committee Secretariat hec@parliament.qld.gov.au

cc. Members of the Health and Environment Committee

- Rob Molhoek Southport@parliament.qld.gov.au
- Steve Andrew Mirani@parliament.qld.gov.au
- Ali King Pumicestone@parliament.qld.gov.au
- Joan Pearse Lytton@parliament.qld.gov.au
- Sam O'Connor bonney@parliament.qld.gov.au



Submission to the

Health and Environment Committee

on the

Environmental Protection

and Other Legislation Amendment Bill 2022

26 October 2022

Submitted and directed to:

Committee Secretary

Health and Environment Committee

PARLIAMENT HOUSE QLD 4000

Submitted via email: hec@parliament.qld.gov.au

By:

Jo-Anne Ruscoe

Chief Executive Officer

Australian Barramundi Farmers Association

36 Grafton St, Cairns City QLD 4870

E: admin@abfa.org.au

M: [REDACTED]

The Australian Barramundi Farmers' Association

Formed in 1993, the Australian Barramundi Farmers Association (ABFA) is the peak representative organisation for the Australian Farmed Barramundi Industry. We exist to facilitate the profitable and sustainable development of the industry. Our members produce more than 96% of Australia's farmed barramundi, with more than half of our members operating in Queensland.

The status of Queensland's barramundi farm sector

Most production of barramundi in Queensland occurs in pond-based systems. With aquaculture being an extremely efficient sector, we estimate that the land area for barramundi farming in Queensland is less than 100 ha.

During 2020-21, Queensland's barramundi production increased by 19.7%, with 2904.4 tonnes sold in 2019–20 and 3477.9 tonnes sold in 2020–21. The value of Queensland's barramundi sector increased by 23.2%, from \$28.3 million in 2019–20 to \$34.9 million in 2020–21. (Fisheries Queensland, 2021).

The industry in Queensland is now estimated to be worth over \$60 million per annum based on annualised production figures from the first quarter of the 2023 financial year.

ABFA response to the proposed Environmental Protection and Other Legislative Amendment Bill 2022

Our members rely on a clean and healthy environment for their operations and support appropriate regulation to protect the environment. However, this Bill creates significant sovereign risk for all businesses (circa 8,500) that possess or must apply for Environmental Authorities (EA's). As currently drafted, the Bill eliminates certainty and undermines approvals and license conditions. Existing EA's could be subject to unilateral and retrospective change based on the opinion of the Department of Environment and Science (DES) Chief Executive or delegate. Furthermore, projects can be denied transparency of process and procedural fairness by being rejected at conception before meaningful consultation and assessment. The fundamental tenets of a fair planning regime that support project development across all industries, being plan-making consultation, development assessment, and dispute resolution, appear to be subjugated in the interest of achieving an expedited process at the expense of fairness.

The ABFA does not support the introduction of s 41a (Decision on draft terms of reference)

The Bill affords DES complete discretion to refuse a project without undertaking an environmental impact assessment, or indeed conducting any evaluation at all. This denies a proponent the opportunity to assess the impacts and develop mitigation and/or prevention strategies to eliminate the risk of environmental harm from its proposed activities. This provision eliminates due process by allowing a subjective, premature, and cursory assessment of a draft Terms of Reference (TOR) to be conducted, and a consequent decision to refuse an Environmental Impact Assessment (EIS).

The Bill allows the chief executive to refuse to allow a draft TOR to proceed to public notification if, in the opinion of the chief executive, the activity would have an unacceptable impact on a matter of national environmental significance or give rise to an unacceptable risk of environmental harm.

It is our view that the understanding of aquaculture remains at a rudimentary level within DES, and sufficient evidence has been provided by our members to suggest decision making within DES isn't always objective. It is our members' strong perception that the culture within DES results in a predisposition to a negative response towards aquaculture.

In the context of the above, decision-making power being vested in the chief executive in such a manner as to allow a proposal to be rejected on subjective grounds creates untenable investment risk.

By way of a simple illustration, a prospective aquaculture operator may purchase a greenfield site with a view to constructing a sustainable aquaculture farm on the designated site. This operator schedules a pre-lodgement meeting with DES and presents initial plans. The delegate states, 'we don't want a farm there' and won't support your plans. Regardless of the social, environmental and economic impacts or benefits, and before considered review, the project contemplated has been terminated and the potential benefits associated with the project are forever lost.

The ABFA does not support the omission of s 50 (Ministerial review of refusal to allow to proceed)

The Bill removes all Ministerial appeal/review rights, resulting in a further concentration of power within DES. This denies proponents procedural fairness and natural justice and in account of the statements made above, causes grave concerns amongst our membership.

The ABFA does not support the insertion of new S 319 A. (Special provision for activities involving relevant industrial chemicals)

This insertion creates a presumption that the General Environmental Duty has been breached regarding special provisions for activities involving relevant industrial chemicals when adequate legislation and penalties already exist under the Industrial Chemicals Environmental Management (Register) Act 2021 (Cwth).

The ABFA does not support Amendment of s 326BA (When environmental investigation required—contamination of land), Replacement of s 331 (Content of program), Amendment of s 363AA (Definitions for division) and Amendment of s 363B (Authorised person may issue a direction notice)

By different means, these clauses achieve a consistent outcome, providing DES with authority to retrospectively amend existing EA conditions on the basis of investigations, direction notices, and amendments based on subjective and discretionary interpretations. The ABFA is of the opinion provisions that create the opportunity for DES to amend existing EA conditions should be governed by an objective framework that minimises interpretation and is supported by an independent appeals process.

By way of illustration, DES may issue a Direction notice to a proponent with a request they cease an activity, such as limiting the volume of discharge after heavy rainfall. In issuing a Direction notice, DES reserves the

right to retrospectively amend an existing EA in other ways, such as reducing nutrient load 50% under the existing EA, even without evidence of environmental harm, which serves to reduce that farm's productivity, and value, by an equivalent amount.

In summary, while the ABFA acknowledges that the primary policy objective of the Bill is to improve administrative efficiency and ensure the regulatory frameworks within the Environment portfolio remain contemporary, effective and responsive, we have great concern the Bill vests an inappropriate level of power within DES and allows proposals to be rejected and EA's to be amended on subjective grounds, thereby, creating untenable investment risk for businesses subject to EA's.

This piece of legislation that has the potential to significantly undermine the growth and development of the industry within Queensland, which conflicts with the policy intent of the Queensland government to support sustainable aquaculture development.

The aquaculture opportunity

Aquaculture is Australia's fastest growing primary industry sector with gross value of production increasing by 5 per cent in 2017–18 to \$1.42 billion. In 2021–22 aquaculture is expected to be the dominant segment of the seafood industry, hitting a peak production value of over \$2 billion for the first time. (ABARES, 2022).

Globally, aquaculture produced 82.1 million tonnes of aquatic animals in 2018 with a value of around US \$250 billion and the FAO projects production to increase by one-third by 2030, reaching 109 million tonnes. The forecast is that aquaculture will supply the majority of aquatic protein in people's diets by 2050 (FAO, 2018).

In identifying potential opportunities for Australian businesses to position Australia as a leading supplier of the world's protein, Food and Innovation Australia (FIAL) surmised that if Australian producers were to restructure their food production mix and shift into higher value protein categories such as aquaculture or differentiate their offering through the adoption of new technology and innovations to match global protein consumption, they could capture up to A\$55 billion more in production value in 2025 as compared to a business-as-usual trajectory (FIAL, March 2019).

Aquaculture can form part of transformed food production systems that reduce overall environmental impacts. Australia has many opportunities to grow a responsible aquaculture industry, and while there are challenges to the development and operation of aquaculture enterprises, the potential to exploit these natural advantages and develop modern and sustainable aquaculture industries presents a compelling opportunity (CSIRO 2018).

The opportunities for sustainable aquaculture industry development in northern Australia are bright, with estimates that the overall aquaculture industry could reasonably expand by 2030 to five times its current production and achieve GVPs of greater than \$1.3 billion p.a. with an additional 1,400 – 2,300 jobs (CRC Northern Australia).

As demand for seafood continues to rise and Queensland's wild-caught fisheries reach ecological sustainable levels, aquaculture will need to drive growth in seafood production. Queensland is an ideal location for developing a diverse, market-driven aquaculture industry, capable of supplying a significant share of high-value seafood to these growing domestic and international markets (Queensland Government, Department of Agriculture and Fisheries, 2021).

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